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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter

of Case No.
02-B-11039

CEDAR CHEMICAL CORPORATION,
Debtor.

-----x

October 7, 2002

United States Customs House
One Bowling Green
New York, New York 10004

Adj. From: 9/25/02(1) Evidentiary hearing re
Debtor's motion for further order authorizing
abandonment of West Helena Manufacturing
Facility and Vicksburg Manufacturing Facility

B E F O R E:

HON. STUART M. BERNSTEIN,
Bankruptcy Judge.

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CEDAR CHEMICAL CORPORATION

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1 CEDAR CHEMICAL CORPORATION

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MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL
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CEDAR CHEMICAL CORPORATION

A P P E A R A N C E S (Continued):

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BY: DAN ETZKORN, ESQ., of Counsel

1 CEDAR CHEMICAL CORPORATION
2 P R O C E E D I N G S
3

4 THE COURT: Cedar Chemical.

5 MR. ANGEL: Good morning.

6 Joshua Angel from the firm of Angel & Frankel,
7 for the Debtor.

8 If Your Honor pleases, this is a
9 motion by the Debtor, Cedar Chemical, to
10 abandon the real property and buildings that
11 it owns in West Helena, Arkansas, and it is
12 also a motion by Cedar's wholly owned
13 subsidiary, Vicksburg, to abandon the land and
14 buildings which it owns in Vicksburg,
15 Mississippi.

16 Motions are pursuant to
17 Bankruptcy Codes Section 105(a) and 554(a),
18 and I would like to make known at the outset
19 of the proceeding, Your Honor, that although
20 our original motion was couched in terms of a
21 possible abandonment to a regulatory agency,
22 we did that as an option for the agencies if
23 they chose to take such title.

24 We, as Your Honor put his finger
25 on the last time we were here in relation to

1 CEDAR CHEMICAL CORPORATION
2 this. We do not believe that we have the
3 ability to force an agency to take abandoned
4 property, and indeed our motion clearly and
5 unequivocally is to abandon these properties
6 to the respective parties, leaving them with
7 the property and the separate and apart from
8 the Debtor's estate.

9 With that instruction, I am
10 prepared to call my first witness.

11 THE COURT: Is there anyone else
12 who wants to be heard before we begin?

13 MR. KAMINETZKY: Benjamin
14 Kaminetzky, from the firm of Davis Polk &
15 Wardwell, for the the prepetition secured
16 lenders.

17 The agency is not going to be
18 putting on any witnesses, but we would like to
19 make a statement at the end of the testimony.

20 THE COURT: All right.

21 MR. KENNEDY: David Kennedy from
22 the U.S. Attorney Office. We will also be
23 making a statement at the end, on behalf of
24 the EPA.

25 MR. BARLOW: Chuck Barlow for

1 CEDAR CHEMICAL CORPORATION
 2 the State of Mississippi, Department of
 3 Environmental Quality, we do have one witness
 4 we would like to present.

5 THE COURT: Okay.

6 MR. ETZKORN: The state of
 7 Arkansas has one witness.

8 THE COURT: Go ahead.

9 P H I L I P G U N D,
 10 having been first duly sworn by the
 11 Notary Public, was examined and
 12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. ANGEL:

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1 CEDAR CHEMICAL CORPORATION

2 Q. Mr. Gund, would you tell the
3 Court what your educational background is.

4 A. Yes. I am a graduate from Pace
5 University, with a BA in public accounting.

6 Q. In what year did you receive your
7 degree?

8 A. 1983.

9 Q. Could you tell the Court with
10 regard to your most recent work history?

11 A. Sure. I am also a CPA and also
12 a certified insolvency restructuring
13 advisor. My current work history is I have
14 been involved in corporate restructuring for
15 the last 13 and-a-half years .

16 Q. On behalf of any particular firm
17 or on behalf of yourself?

18 A. Up until the last 18 months I was
19 a partner in Zolof, Cooper a leading boutique
20 in the restructuring industry, and for the
21 last 18 months I have been a principal in my
22 own firm.

23 Q. Mr. Gund, are you associated in
24 any way with the Debtor Cedar Chemical and/or
25 Vicksburg Chemical Company?

1 CEDAR CHEMICAL CORPORATION

2 A. Yes.

3 Q. In what capacity, sir?

4 A. Right after the filing of the
5 Cedar and Vicksburg bankruptcy my firm was
6 retained as a restructuring officer, and me,
7 particularly, in assisting the Debtor in its
8 liquidation of its assets.

9 Q. Do you remember which person, if
10 any, who requested that you or your firm
11 become involved with those companies?

12 A. Yourself.

13 Q. Excuse me?

14 A. -- Angel.

15 Q. Joshua?

16 A. Joshua.

17 Q. Okay.

18 I believe you said you have a
19 title?

20 A. Restructuring officer.

21 Q. And when you were retained, was
22 that in March of this year?

23 A. Yes. I was retained in March --
24 right around March 8, right around the filing.

25 Q. At about the time of the filing?

1 CEDAR CHEMICAL CORPORATION

2 A. That's correct.

3 Q. What did you do after you were
4 retained, sir?

5 A. After we were --

6 Q. If anything?

7 A. After we were retained, we
8 immediately took a look at the current cash
9 position of the company up until the filing.
10 The company then negotiated the cash
11 collateral stipulation with the existing
12 lenders. We looked at the profitability of
13 the organization. We looked at the current
14 status of the facilities. We toured the
15 facilities. We brought along with us the
16 individuals that we understood to be very
17 knowledgeable of the plants. We worked with
18 them in the past in another restructuring to
19 help us evaluate the facility and potential
20 restructuring of the operations, and also to
21 better understand the environmental situation.

22 Q. Did you make an evaluation of the
23 facilities, both the so-called Cedar
24 facilities and Vicksburg facilities?

25 A. At the outset of the case --

1 CEDAR CHEMICAL CORPORATION

2 Q. Yes or no, did you?

3 A. The answer is yes.

4 Q. With regard to the Cedar
5 facility, what opinion did you form?

6 A. We didn't have a view that that
7 facility as currently structured -- we didn't
8 think at that time that facility could be made
9 into a profitable organization.

10 Q. What about the Vicksburg
11 facility, did you form an opinion as to that?

12 A. The same.

13 Q. Did these facilities produce
14 their product at a price that was higher or
15 lower than the market price that could be
16 obtained for such products?

17 A. If you looked at the overall cost
18 associated with the manufacturing facilities,
19 the corporate overhead, the operating costs of
20 the facilities, those facilities lost a
21 substantial amount of money. I think the
22 loss for 2000 was in excess of \$11 million.
23 So the answer is no.

24 THE COURT: Is that for both of
25 them?

1 CEDAR CHEMICAL CORPORATION

2 THE WITNESS: That is combined.

3 Q. Have you heard the term, sir,
4 free assets?

5 A. Yes.

6 Q. What does that matter?

7 A. That generally refers to the
8 assets unencumbered by a secured lender.

9 Q. In this instance were there any
10 material free assets that belonged to either
11 of these Debtors?

12 A. There are some free assets,
13 particularly there is a roughly \$597,000 that
14 is sitting in a trust fund that I believe was
15 set up several years ago for either the
16 shutdown or the mediation of the facilities.

17 Q. Did you ever hear of a company
18 called Vertac.

19 A. My understanding is that was the
20 predecessor or company.

21 Q. Predecessor owner?

22 A. Yes, of the facility.

23 Q. Did it set up this trust
24 fund --

25 A. I believe it did.

1 CEDAR CHEMICAL CORPORATION

2 Q. That you just talked about?

3 A. I believe it did.

4 Q. And other than the trust fund
5 that you just put your finger on, do you know
6 of any other free assets in this estate?

7 A. From my understanding from the
8 negotiated cash collateral Order, there is a
9 formula contained in there for the sharing of
10 proceeds from avoidance actions. In
11 addition, there was a settlement reached where
12 20 percent of the proceeds from the
13 disposition of registrations were also given
14 to the estate.

15 Q. We will get back to that in a
16 minute, sir.

17 With regard to the West Helena
18 facility of Cedar Chemical, the real property
19 and the plan and buildings, as chief
20 restructuring officer did you make an effort
21 to sell those properties?

22 A. Yes, we did.

23 Q. Did you receive any offers to
24 sell the property?

25 A. To date we have not received an

1 CEDAR CHEMICAL CORPORATION

2 offer on the property.

3 Q. What efforts did you take, if
4 any, to dispose of the property?

5 A. For both properties we have
6 contacted in excess of 30 companies to find
7 out their interest in the properties. We
8 have contacted equipment dealers that were
9 actually prepared to take some of the
10 equipment. We also -- I also spoke to an
11 investment banker that is -- his is specialty
12 chemical companies. I described the situation
13 for him, provided him with some basic
14 information. He concluded that none of his
15 clients would be interested nor did they think
16 they were viable facilities, given the
17 environmental contamination and the products
18 that they produce.

19 Q. Did the company, meaning the
20 Debtor Cedar Chemical, did it attempt to
21 obstruct your attempts to sell this property?

22 A. No. In fact, it had assisted in
23 identifying some of the companies that may
24 have been interested.

25 Q. What about the bank group here,

1 CEDAR CHEMICAL CORPORATION

2 did the bank group try to obstruct your
3 attempt to sell the West Helena properties?

4 A. No.

5 Q. Did you ever hear the expression
6 "mothball"?

7 A. Yes.

8 Q. Could you tell the Court what you
9 understand that expression to mean in
10 connection with the West Helena facility of
11 Cedar Chemical?

12 A. My understanding is we have been
13 working with Yehuda Yoked and his management
14 team to bring his facilities to the mothball
15 status.

16 My understanding is we have been
17 disposing of all of the inventory that is at
18 the facility either through the sale or proper
19 disposition techniques, any waste that was
20 there was disposed of in accordance with the
21 regulation to dispose of that kind of waste.
22 All of the various equipment and various
23 plants at the facilities have been purged,
24 washed, scrubbed whatever is necessary to get
25 them in the safe condition and all the

1 CEDAR CHEMICAL CORPORATION

2 chemicals that were used in the process have
3 been or are in the process of being disposed
4 of.

5 Q. Who bankrolled those efforts?

6 A. At the outset of the case we
7 worked with the bank to put together a budget
8 at the very beginning on a two-week basis and
9 now a monthly basis, it is now back down to
10 two weeks. They bankrolled basically
11 everything. We have submitted them. On a
12 periodic basis they have approved the budget.

13 Q. Who formulated the budget? Did
14 the banks formulate the budget?

15 A. No, I worked with, myself and my
16 staff worked with the management team from
17 Cedar and Vicksburg to put together the
18 budgets.

19 Q. Did they help you to formulate
20 those budgets?

21 A. Yes.

22 Q. When you formulated the budget,
23 what did you do?

24 A. Basically, we looked at all of
25 the costs required to staff and man the

1 CEDAR CHEMICAL CORPORATION
2 facilities, bring them to a mothball status,
3 to dispose of any waste, to make sure that the
4 pond continue operating, to make sure the
5 utilities and whatnot were in place so the
6 facility could be maintained in a safe
7 condition while the properties went to
8 mothball status.

9 Q. Did you request the mothball
10 group to finance these activities as set forth
11 in the budgets?

12 A. Yes.

13 Q. Did they do so?

14 A. They have.

15 Q. When was the mothball begun, sir?

16 A. Shortly after the filing the
17 mothball was started at both facilities. At
18 the Vicksburg facility it ended up getting
19 delayed for a period of time because of other
20 activities, and subsequently those activities
21 not coming to fruition we stopped that and
22 restarted the mothball process.

23 Q. With regard to mothball I asked
24 you questions with regard to the West Helena,
25 Arkansas facility. If I asked you the same

1 CEDAR CHEMICAL CORPORATION

2 questions with regard to the Vicksburg,
3 Mississippi facility, of Vicksburg Chemical,
4 would your answers be the same?

5 A. Yes.

6 Q. Did you follow the same program?

7 A. Yes.

8 Q. In other words, budgeting and
9 financing and doing what was necessary to
10 affect a mothball?

11 A. That's correct.

12 Q. And do you know, sir, what the
13 amount of expenditures has been to date to
14 affect the mothball of these facilities, of
15 these two facilities?

16 A. On a combined basis it is
17 approximately \$5.7 million.

18 Q. Are you able to break those
19 numbers out for each of the facilities?

20 A. It is difficult. You could make
21 an allocation. We have made an allocation
22 between the two projects, it's 2.1 to the West
23 Helena facility and 3.6, I believe, to the
24 Vicksburg facility.

25 Q. The source of those funds was,

1 CEDAR CHEMICAL CORPORATION

2 again, where?

3 A. The bank groups, use of their
4 cash facility.

5 Q. Are you familiar with a term
6 called "adequate protection," sir?

7 A. Yes.

8 Q. Would you tell the Court what
9 your understanding of that term is?

10 A. My understanding of that term is
11 when you use a secured lenders or secured
12 parties, assets, where that asset is
13 deteriorated, they are entitled to replacement
14 liens, replacement assets.

15 Q. Were you able to provide the
16 banks with any adequate protection?

17 A. There aren't any assets to
18 provide them with adequate protection.

19 Q. So there is no return for the
20 monies that were extended by the banks, these
21 moneys are gone?

22 A. I do not believe they will be
23 returned.

24 Q. Sir, did either of these estates,
25 or the Cedar estate or Vicksburg estate, did

1 CEDAR CHEMICAL CORPORATION

2 they realize any funds from the sale of any
3 buildings and/or land located in the areas we
4 have just spoken about?

5 A. No.

6 Q. Do you believe, sir, that the
7 Debtors have been responsible in taking care
8 of their duties as good corporate citizens?

9 A. Very much so.

10 Q. The banks have been responsible,
11 sir --

12 A. Very much so.

13 Q. -- as good corporate citizens?

14 A. Yes, they have.

15 Q. Now, again, I asked you about the
16 free assets. But I just want to make
17 certain. I think you identified an account
18 that was established by Vertac?

19 A. That's correct.

20 Q. Are the moneys in that account
21 available for remediation or maintenance of
22 these properties going forward?

23 A. My understanding is those funds
24 were made available for either shutdown or
25 mediation, I have not gone through the papers

1 CEDAR CHEMICAL CORPORATION

2 in detail, but that is my understanding.

3 Q. As far as the company is
4 concerned those are free assets to defend
5 these companies, it remediates them?

6 A. Yes.

7 Q. Do you know the percentage of
8 moneys that would be available for free assets
9 in this estate when and if the sale of
10 registration rights are completed?

11 A. My understanding is 20 percent.

12 Q. Do you know the likely price that
13 the registrations will be sold for, sir?

14 A. We currently have three bidders
15 and the highest bid is \$1.1 million. So that
16 would be \$220,000.

17 Q. To what point in time do you have
18 budget funding from the bank group?

19 A. The current budget, I believe,
20 expires on October 14.

21 Q. And if your program is not
22 completed by that date, do you have the
23 promise of any additional funding from the
24 bank group to complete your program of
25 mothball?

1 CEDAR CHEMICAL CORPORATION

2 A. As of right now the answer is
3 no. I am required to submit another budget
4 this week.

5 Q. But you don't know whether they
6 will support that budget or not?

7 A. I did not have that
8 conversation with them yet, so the answer has
9 to be no.

10 Q. Incidentally, sir, have you
11 prepared or did you cause to be prepared a
12 forecast of what it would cost to -- I'm
13 sorry, I will withdraw that. Let me try that
14 again.

15 Sir, I show you a piece of paper
16 and ask you whether or not you have ever seen
17 this piece of paper?

18 A. I have.

19 Q. And could you tell the Court what
20 this piece of paper is?

21 A. Yes. This is a budget that I
22 asked one of my associates to work with the
23 company to prepare, which is an estimate of
24 potential ongoing costs of maintaining the
25 facilities in mothball status on a

1 CEDAR CHEMICAL CORPORATION

2 month-to-month basis.

3 Q. This is your best estimate at
4 this time of that mothball or the continued
5 maintenance of these properties will entail
6 once your mothball program is concluded?

7 A. At this time the answer is yes.

8 Q. Do you know of any offers or
9 potential interest that might be viable in
10 either the West Helena or the Vicksburg
11 facility?

12 A. We have had several people that
13 have expressed an interest in both
14 properties. Currently in most of these
15 situations they have all backed away because
16 of the environmental situation at the
17 facilities. At the West Helena facility
18 there is one party that continues to express
19 an interest although a week ago, after
20 spending some time in the facility going
21 through the environmental reports and talking
22 with the State authorities they backed away,
23 were no longer interested.

24 My understanding, as of the end
25 of last week they are interested again, and

1 CEDAR CHEMICAL CORPORATION

2 one of my associates has flown down to meet
3 with them this week.

4 Q. Are you knowledgeable of who that
5 party is?

6 A. I am not able to disclose it.
7 We signed a confidentiality agreement.

8 Q. If the company makes an offer to
9 purchase the property for \$1, would the
10 company have any objection to that offer?

11 A. Absolutely not.

12 Q. What about the record,
13 maintenance records with regard to
14 environmental issues and cleanups at the
15 property, are there records that are
16 maintained?

17 A. Yes. I just want to clarify on
18 the assets.

19 Q. Please.

20 A. There is another party -- there
21 are two parties interested in the Vicksburg
22 facilities. Those parties are conducting due
23 diligence. They have all known about the
24 sale of that facility for some time. Most of
25 the interest around that facility was

1 CEDAR CHEMICAL CORPORATION

2 structured about entering into a contract, the
3 governmental contract to supply fuel additives
4 for various governmental programs.

5 Once that contract was awarded to
6 a company other than Vicksburg, there wasn't a
7 substantial amount of interest. There is --
8 the company that obtained that contract has
9 expressed an interest although it did have a
10 significant concern over the environmental
11 contamination of the facility.

12 There is another company who is
13 conducting due diligence and is trying to
14 determine whether or not they are interested
15 in the facility.

16 Q. Do you know the difference, sir,
17 between, a "tire kicker" and a "buyer"?

18 A. Yes.

19 Q. Explain to the Court what you
20 believe the difference is?

21 A. A tire kicker spends a lot of
22 time doing due diligence and at the end of the
23 the day he gathers information and generally
24 doesn't have the financial wherewithal to
25 finance the transaction. Someone who is a

1 CEDAR CHEMICAL CORPORATION

2 real buyer comes in with the full due
3 diligence people, consisting of financial
4 people, investment bankers and lawyers with
5 financing in hand and is interested in
6 actually buying the facility.

7 Q. To the best of your
8 knowledgeable, information and belief, is
9 there a buyer available for either of these
10 facilities today?

11 A. There may be. As of right now I
12 haven't gotten an offer.

13 Q. You don't know of any right now?

14 A. I have interested parties, but no
15 offers.

16 Q. What about the records? Does the
17 company maintain records, each of these
18 companies, Vicksburg and Cedar, do they each
19 maintain records with regard to the
20 environmental issues at the properties of the
21 cleanups, what is done, et cetera?

22 A. All those records are maintained
23 at both the facilities.

24 Q. What would you expect will happen
25 with those records if the Court were to grant

1 CEDAR CHEMICAL CORPORATION

2 this motion to abandon respective parties?

3 A. Well, depending on what would
4 happen with the abandonment, to the extent it
5 just gets abandoned and no one takes the
6 facilities, then the records would have to be
7 boxed up and put in or arranged so there could
8 be access to them at some future date.

9 To the extent they are abandoned
10 to, whether it is the estate or the EPA,
11 although records would be available to whoever
12 takes it, so they could understand what is
13 done to date and they could have access to
14 whatever studies the Debtor has previously
15 conducted.

16 Q. Sir, as the responsible officer
17 of these companies, has the company made
18 available to the environmental agencies, upon
19 request of those agencies, access to each of
20 the premises as they might require?

21 A. My understanding is the answer is
22 yes.

23 Q. Would you have any opposition to
24 the government having such access in the
25 future?

1 CEDAR CHEMICAL CORPORATION

2 A. No.

3 MR. ANGEL: I have no further
4 questions, Your Honor.

5 THE COURT: Are you marking this
6 document?

7 MR. ANGEL: Yes, I'm sorry, most
8 respectfully I would like to mark this as
9 Debtor's Exhibit 1.

10 THE COURT: Any objections?

11 MR. ETZKORN: No objection.

12 THE COURT: It is received.

13 (Summary forecast of monthly
14 expenses marked Debtor's Exhibit 1 received in
15 evidence, as of this date.)

16 THE COURT: Any
17 cross-examination?

18 CROSS-EXAMINATION

19 BY MR. KENNEDY:

20 Q. Good morning, Mr. Gund, how are
21 you?

22 A. Good morning.

23 Q. I would like to begin by calling
24 your attention to the summary forecast of
25 monthly expenses to maintain the Vicksburg and

1 CEDAR CHEMICAL CORPORATION

2 West Helena that is received as Exhibit 1, if
3 this is, in fact, one?

4 THE COURT: It is.

5 Q. Did you personally prepare this
6 document?

7 A. I did not.

8 Q. Who did?

9 A. It was prepared by Brian Peri
10 (phonetic), one of my associates.

11 Q. What is the relationship of Brian
12 Peri to either one of the Debtors?

13 A. He works for my firm.

14 Q. Does he work for any other
15 entity?

16 A. No, he does not.

17 Q. I would like to call your
18 attention to -- I would like to go through
19 certain of these lines. The first is on
20 payroll and it relates to costs.

21 Have you located that line on the
22 chart, sir?

23 A. I have.

24 Q. Am I correct in understanding
25 this payroll cost essentially goes to pay your

1 CEDAR CHEMICAL CORPORATION

2 employee salaries?

3 A. Yes.

4 Q. And that is a monthly cost, is
5 that correct?

6 A. It is an estimate of the monthly
7 cost.

8 Q. An estimate of the monthly
9 cost. And following the mothball activities,
10 is it the statement in this chart that there
11 will be 14 employees at the West Helena plant?

12 A. Yes.

13 Q. How many are there now?

14 A. I believe there are may be 14 at
15 the facility, I don't know currently right now
16 but there may be 14.

17 Q. And this \$48,000 that is a
18 monthly payroll, is that correct?

19 A. Actually I think the head count
20 between the two has been switched. I believe
21 it will be ten at the West Helena facility and
22 14 at the Vicksburg facility.

23 Q. So is it then your testimony that
24 much each of the West Helena employees will be
25 making \$4,800 a month; is that correct?

1 CEDAR CHEMICAL CORPORATION

2 A. With payroll, medical, with all
3 of the benefits and payroll taxes. If you
4 estimate that way that is correct. The
5 difference between the two is because we have
6 some for the people, some individuals at the
7 Vicksburg facility who are also overseeing the
8 operations at the West Helena facility.

9 Q. I was just about to get to
10 that. When you turn to the payroll cost for
11 Vicksburg it is \$87,000 with only 14
12 employees; is that correct?

13 A. That's correct.

14 Q. So that would work out for the
15 employees at Vicksburg, making it I believe
16 \$7,200 a month. Just very quick math.

17 A. I trust your math is accurate.

18 Q. I would ask you what is the
19 reason for the difference collateral in the
20 current employees cost at the Cedarburg and
21 Vicksburg?

22 A. You have more senior people being
23 retained at the Vicksburg facility because
24 they are not only overseeing the Vicksburg
25 facility, but they are also overseeing the

1 CEDAR CHEMICAL CORPORATION

2 West Helena facility.

3 John Miles is the plant manager
4 at the Vicksburg facilities. He also has
5 extensive experience at West Helena, and I
6 think it is Steve Boswell who is the
7 environmental engineer at the Vicksburg
8 facility who has an understanding of the
9 situation at the West Helena facility.

10 I am sure there are other
11 employees. They just don't come to mind.

12 Q. Let's go back to the West Helena
13 facility. Once the plan is mothballed what
14 will the ten employees be doing?

15 A. People are there for security,
16 there is EPA to monitor the pond, to monitor
17 whatever else has to be monitored as a result
18 of any consent decrees or any other
19 arrangements reached with the government to
20 continue to monitor the underground water
21 contamination.

22 You also have the maintenance
23 individuals to make sure that if there is any
24 breakage, whether it is the pond system or
25 anything else in the system, they are there to

1 CEDAR CHEMICAL CORPORATION

2 maintain that as well. So it is a
3 combination of environmental, security and
4 maintenance.

5 Q: And you require ten employees to
6 do that?

7 A. The security and maintenance in
8 the pond is 24 hours, so they run on various
9 different shifts.

10 Q. Would I be correct in assuming at
11 the Vicksburg plant you have the same number
12 of employees, say roughly ten or so performing
13 the same kinds of tasks with the difference in
14 employees being made up of the three or four
15 people such as John Miles who are essentially
16 performing oversight for both?

17 A. Yes.

18 Q. And essentially they require the
19 same number of security, maintenance, EPA
20 monitoring people at both sites?

21 A. Yes.

22 Q. And then the difference is made
23 up of these more executive personnel who go
24 back and forth; is that correct?

25 A. Yes.

1 CEDAR CHEMICAL CORPORATION

2 Q. Thank you very much.

3 On the utilities line you
4 indicate in your assumptions, towards the
5 bottom of the draft, that the utilities are
6 assumed to decrease approximately \$35,000 a
7 month once the mothball activities have been
8 completed; is that correct?

9 A. That's correct.

10 Q. Is that \$35,000 per plant?

11 A. That was a total for the two.

12 Q. So do you have a sense of what
13 the distribution between the plants would be?

14 A. I do not.

15 Q. We can ask to look at the total
16 column, 115 and subtract 35 from that?

17 A. No.

18 Q. So then we could go to the total
19 column where it is listed as 115 and then
20 subtract the 35 from that amount?

21 A. That is not correct.

22 Q. Why is it not correct?

23 A. \$115,000 is an estimate right
24 now. That is after the \$35,000 reduction:
25 Utilities right now are estimated about

1 CEDAR CHEMICAL CORPORATION

2 \$150,000 a month.

3 Q. When do you expect this amount to
4 decrease?

5 A. That should decrease by the end
6 of October.

7 I will volunteer some information
8 here.

9 Q. Sure.

10 A. The Debtor is currently in a
11 contract to supply to the extent that whoever
12 takes over the facility can get energy
13 cheaper, clearly there will be some reduction
14 in the cost. To the extent there is a more
15 expensive energy, energy is based on what you
16 could negotiate on the price of energy. This
17 is just a price based on current prices and
18 current contracts.

19 Q. Let's go to the fourth line which
20 refers to supplies, maintenance and the EPA.
21 Is the EPA a reference to the environmental
22 protection agency?

23 A. No.

24 Q. What is it in reference to?

25 A. Supplies necessary to maintain

1 CEDAR CHEMICAL CORPORATION

2 the pond and whatever else is necessary for
3 EPA tax, the environment tax or Steve Boswell
4 and his staff to main the facilities.

5 Q. I will take you down to the
6 eighth line on the lease and executory
7 contracts. Which executory contracts are
8 maintained in place at the facilities?

9 A. I have to be honest with you. I
10 don't know the specific contracts. I believe
11 it has something to do with the equipment that
12 is necessary to maintain the facilities, but I
13 could find out that information for you.

14 Q. Certainly. Has it been the
15 practice of the Debtors in the course of this
16 bankruptcy case to move to terminate executory
17 contracts as part of the mothball completion
18 of the mothball activities at the facilities?

19 A. As it was no longer necessary in
20 the equipment for mothball activity we moved
21 to reject all of the leases.

22 Q. Do you know why Debtors have not
23 moved to reject those executory contracts and
24 leases?

25 A. I believe that equipment is still

1 CEDAR CHEMICAL CORPORATION

2 necessary in mothball activity.

3 Q. Is it and will it be necessary
4 once the plants are mothballed?

5 A. To the extent my staff and the
6 company have looked at these leases and
7 concluded they are necessary in the mothball
8 activity and in going forward to maintain
9 those facilities, I view those costs on a
10 going forward basis will be necessary.

11 Q. The total here we have for
12 operating expenses is approximately \$330,000;
13 is that correct?

14 A. That's correct.

15 Q. So it is not \$500,000, is it?

16 A. No, it is not.

17 Q. Are you aware that Debtors made
18 the representation in the various motions that
19 the monthly cost would be \$500,000?

20 A. I believe at the time the
21 question that was asked: What is the current
22 cost of maintaining the facilities in the
23 mothball facility. Right now the Debtors are
24 running roughly \$600,000 a month.

25 Q. Are you aware in the original

1 CEDAR CHEMICAL CORPORATION
2 motion the Debtors stated, and this is
3 paragraph 35 of the motion for approval of the
4 abandonment -- I'm sorry, Mr. Gund, you don't
5 remember the exact paragraph number?

6 A. No.

7 Q. Just for the record, it is
8 paragraph 35.

9 THE COURT: What is the
10 statement.

11 Q. "The lenders have indicated they
12 are no longer willing to fund the amounts
13 necessary to maintain the plans given a
14 monthly cost of \$500,000 and the absence in
15 likelihood that the Debtor's estate or the
16 lenders will derive any economic benefit from
17 these expenditures."

18 I am asking you to comment on any
19 of the rest, but am I given to understand this
20 monthly cost of \$500,000 now is not an
21 accurate statement of the cost going forward?

22 A. I am not going to comment on what
23 the intent of that language was. At the time
24 it was drafted the cost of maintaining the
25 facilities and trying to get them to the final

1 CEDAR CHEMICAL CORPORATION
2 stage of being mothballed was running between
3 500 an \$600,000 a month.

4 Q. But since then it has come down
5 by about \$175,000.

6 A. It has not come down. It will
7 not come down until after October is over.
8 The estiamted cost for the month of October is
9 \$600,000.

10 Q. Mr. Gund, I guess what I would
11 like to do now is bring to your attention the
12 remainder of the charts, Debtor's charts and
13 exhibits?

14 MR. KENNEDY: Your Honor, if I
15 could approach the witness with the charts and
16 exhibits.

17 THE COURT: Do you have extra
18 copies?

19 MR. KENNEDY: They will be
20 attached to Debtor's motion and the witness
21 exhibit list, so everyone should have received
22 a copy electrically.

23 MR. ANGEL: No. That would be
24 done with my next witness.

25 MR. KENNEDY: Your Honor,

1 CEDAR CHEMICAL CORPORATION
2 subject to representation by Mr. Angel that
3 the next witness will be going over the
4 charts, I think it would be more economical to
5 save it until then.

6 THE COURT: Okay.

7 Q. Mr. Gund, during the course of
8 your investigation of Debtor's financial
9 affairs, did you have occasion to become
10 familiar with their corporate ownership?

11 A. I have not investigated the
12 corporate ownership in detail.

13 Q. Did you know that Cedar Chemical
14 owns 100 percent of the stock of Vicksburg?

15 A. I am aware of that, yes.

16 Q. So in other words, Cedar is a
17 partner of Vicksburg?

18 A. That's correct.

19 Q. Do you know if there is a
20 corporate parent to Cedar?

21 A. I believe, although I have not
22 done the investigation myself, it is Nine
23 West.

24 Q. Nine West. Did you know that
25 Nine West owns 100 percent of Cedar Chemical

1 CEDAR CHEMICAL CORPORATION

2 Corp.?

3 A. I trust that you are right on
4 that.

5 Q. Just yes or no.

6 A. I never looked at the
7 corporate --

8 THE COURT: The question is
9 whether you know it or not.

10 THE WITNESS: I don't know.

11 Q. That is fine. Do you know that
12 Trans Resources owns 100 percent of Nine West?

13 A. I am not aware of those details.

14 Q. Do you know of any personnel who
15 are involved with Trans Resources who have
16 anything to do with Cedar or Vicksburg?

17 A. I have never looked into the
18 corporate operations and how they ran the
19 company prior to its filing.

20 Q. Do you know who William Dowd is?

21 A. I do.

22 Q. Who is he?

23 A. I believe he is the chief
24 operating officer of TRI.

25 Q. Do you know if he is a director

1 CEDAR CHEMICAL CORPORATION

2 of Cedar?

3 A. I do not know who are the
4 directors of Cedar.

5 Q. Do you know who are the directors
6 of Vicksburg?

7 A. I do not know who are the
8 directors of Vicksburg.

9 Q. What communications have you had
10 with Mr. Dowd in his capacity as president and
11 chief operating officer of Trans Resources?

12 A. I have had several discussions
13 with Mr. Dowd to find out whether or not TRI
14 itself would be interested in the facilities,
15 both with West Helena and Vicksburg.

16 On any number of occasions I've
17 also had conversations with him with respect
18 to seeing if there was a possibility of global
19 settlement in this case, with them taking back
20 the facilities as well as to discuss other
21 issues associated with tax issues between the
22 two entities.

23 Q. Has Mr. Dowd ever given you any
24 direction as to how it would engage in
25 environmental compliance activity at Cedar and

1 CEDAR CHEMICAL CORPORATION

2 Vicksburg?

3 A. No.

4 Q. Mr. Gund, do you know who John
5 Jureller is?

6 A. He is the CFO.

7 Q. I am sorry, it is Jureller, if I
8 pronounced it wrong.

9 A. Jureller.

10 Q. Did you know that Mr. Jureller
11 was also a vice president of Cedar?

12 A. I understood he was an officer.
13 I didn't know what title.

14 Q. Rather than get confused about
15 titles, let's not use the word "titles."

16 Did you know he was also an
17 officer of Vicksburg?

18 A. No.

19 Q. Did you have any conversations
20 with Mr. Jureller during the time you were
21 involved in this case?

22 A. Several.

23 Q. What did those conversations
24 involve?

25 A. Those conversations generally.

1 CEDAR CHEMICAL CORPORATION
2 were based around getting information with
3 respect to tax work papers, tax returns and at
4 the outset of the case I worked with John
5 negotiating the cash collateral stipulation
6 with the bank group.

7 Q. What role did John play in
8 negotiating the cash collateral Order, Mr.
9 Jureller?

10 A. When I first got involved he
11 basically introduced me to the company, let me
12 know where they were currently with respect to
13 cash, provided me with all of the financial
14 statements, provided me with some budget up
15 front, basic background facilities.

16 Q. The financial information of what
17 company?

18 A. Vicksburg.

19 Q. Did he also provide you with the
20 financial information for Nine West or TRI?

21 A. No.

22 Q. I'm sorry, Trans Resource is what
23 I was referring to it as.

24 Are you familiar with Michael
25 Oravec (phonetic)?

1 CEDAR CHEMICAL CORPORATION

2 A. No.

3 Q. Are you familiar with Ray Keller?

4 A. I heard the name but I don't know
5 who --

6 Q. You don't know who he is?

7 A. No.

8 Q. But you have heard of him in
9 relation to your activities in this case?

10 A. Most likely I have heard the
11 name.

12 Q. Are you familiar with Mr.
13 Jureller?

14 A. Yes.

15 Q. What is his role?

16 A. He is the president of both
17 Vicksburg and Cedar.

18 Q. Do you know whether he is an
19 officer of Trans Resources?

20 A. I do not know if he is an officer
21 of Trans Resources.

22 Q. Did you know that in the year
23 proceeding the bankruptcy filing by Cedar and
24 Vicksburg whether Mr. Jureller was paid by
25 Cedar or Vicksburg?

1 CEDAR CHEMICAL CORPORATION

2 A. My understanding was prior to the
3 filing he was the president of Vicksburg and
4 was paid in that capacity.

5 Q. Paid in that capacity by whom?

6 A. By Vicksburg.

7 Q. I would like to ask you some
8 questions about your efforts to sell the
9 facilities.

10 A. Sure.

11 Q. You testified you came in contact
12 with a number of interested buyers for the
13 facilities.

14 A. Yes.

15 Q. Have you ever heard of the
16 company Harcros?

17 A. Yes, I have.

18 Q. What is the extent of your
19 involvement with Harcros?

20 A. My understanding is we provided
21 them with a confidential agreement in May of
22 this year. I have had several conversations
23 with Smokey Skurms. I think it is
24 S-K-U-R-M-S.

25 Q. Is that a nickname?

1 CEDAR CHEMICAL CORPORATION

2 A. I don't know. That is the name
3 I go by when I speak with him. They are
4 interested in the facility, they are
5 interested with respect to, I believe, the
6 extent they had some interest in maybe the
7 end 204 contract. My understanding they were
8 also buyers of the company Chlorine
9 (phonetic).

10 Q. Did you ever make an assessment
11 whether Harcros would maintain it as a
12 facility?

13 A. I never did. If they were an
14 interested buyer who requested due diligence
15 information, we would provide that.

16 Q. Let me focus on that and make
17 sure I understand. It is your testimony that
18 to the extent Harcros has requested any due
19 diligence information, Vicksburg has provided
20 them?

21 A. Yes, to my knowledge anything
22 that they requested, they have been been
23 provided with the information.

24 Q. Are you concluding that Harcros
25 was a tire kicker, to borrow Mr. Angel's

1 CEDAR CHEMICAL CORPORATION

2 terminology before?

3 A. There was a lot of discussion
4 between myself as to whether Harcros had the
5 financial wherewithal to complete the
6 transaction, and what they really were
7 interested in was chlorine plants and they
8 needed a partner to the extent they could
9 actually complete a transaction.

10 MR. KENNEDY: No further
11 questions.

12 THE COURT: When did you say
13 Harcros signed the confidential agreement?

14 THE WITNESS: I believe it was in
15 May.

16 MR. ETZKORN: The State of
17 Arkansas has some questions.

18 CROSS-EXAMINATION

19 BY MR. ETZKORN:

20 Q. I am Dan Etzkorn, with the
21 Arkansas Department of Environmental
22 Quality. I have a few questions for you, Mr.
23 Gund.

24 In your direct testimony you
25 mentioned this trust fund set out by Vertac.

1 CEDAR CHEMICAL CORPORATION

2 Could you explain that a little bit?

3 A. To the extent of my knowledge
4 there is \$597,000, I believe the number is,
5 sitting in the trust account for the benefit
6 of either mothball or cleanup at the
7 facilities for remediation. And it
8 identified two or three facilities in those
9 documents. That is the extent of my
10 knowledge.

11 Q. Do you know what portion has been
12 dedicated to cleaning up the Cedar site?

13 A. I know there is a schedule
14 attached to and there are funds allocated to
15 each one. I don't know the numbers off the
16 top of my head.

17 Q. Also, Mr. Gund, you mentioned in
18 your direct testimony that Cedar has done a
19 number of things to correct some of the
20 environmental problems at the site.

21 What is the current condition of
22 the site?

23 A. The West Helena facility, that
24 facility has been substantially mothballed.
25 My understanding is that all of the individual

1 CEDAR CHEMICAL CORPORATION
2 plants have been purged, washed, flushed,
3 whatever is necessary to get whatever remnants
4 of material that were in them out of them, and
5 all of the inventory has been sold and
6 disposed as required by the environmental
7 laws. There remains to be some inventory at
8 the facility that is planned to be disposed
9 of in the near future.

10 Q. Is there any product left at the
11 site?

12 A. There is some inventory that we
13 have identified that needs to get disposed
14 of. From my understanding it is not salable.

15 Q. What do you plan to do with that?

16 A. Me personally, no. The
17 facility -- John Miles has developed a program
18 to properly dispose of all of the material at
19 both of the facilities. It will be disposed
20 of. We tried to sell it. It is not
21 salable.

22 MR. ANGEL: To help counsel, Mr.
23 Miles will be my next witness.

24 MR. ETZKORN: Okay. Just a
25 few more questions, Your Honor.

1 CEDAR CHEMICAL CORPORATION

2 Q. You indicated that the budget
3 expires on October 14?

4 A. That's correct.

5 Q. What happens to product left on
6 the site after October 14?

7 A. Well, as of October 14, these
8 Debtors will no longer be funded by the bank
9 group; so, in essence, it is out of cash,
10 whatever cash may be maintained in the
11 operating account could be used in continuing
12 the disposal.

13 Q. What you are saying is product
14 that is left on the site after October 14,
15 will remain there?

16 A. Potentially.

17 Q. What plan do you have for
18 collecting the contaminated ground water?

19 A. We have no plan at the moment.

20 Q. What plan do you have to handle
21 the contaminated storm water migrating off the
22 site?

23 A. Currently right now those ponds
24 are being maintained and all the storm water
25 is being trapped and treated in accordance

1 CEDAR CHEMICAL CORPORATION
2 with whatever guidelines the environmental
3 authorities have worked out with the
4 company.

5 After October 14, to the extent
6 there is no longer any funding, I would
7 believe that if nobody takes over the
8 facilities that people, employees need to be
9 terminated. We can't have people working and
10 not getting paid.

11 Q. So if the storm waters are
12 overflowing because no one is running the
13 system, what does Cedar do to correct that
14 problem?

15 A. There are no plans right now.

16 Q. Do you have a buyer set up for
17 the Cedar site?

18 A. For the Cedar site?

19 Q. Yes.

20 A. My understanding is there is a
21 party who is interested in the facility.
22 They're coming down, I believe, on Wednesday
23 of this week to take another tour of the
24 facility, and to look over some additional due
25 diligence information.

1 CEDAR CHEMICAL CORPORATION

2 Q. Earlier you mentioned about
3 storing records for the ADQ to access them?

4 A. We would have to find some sort
5 of secure warehouse where all all the records
6 could be catalogued and maintained.

7 Q. To your knowledge, there is no
8 plan to do that?

9 A. We would have to develop that
10 plan.

11 Q. What access for ADQ or EPA have
12 you provided?

13 A. To the extent there has been a
14 request there has been access provided.

15 Q. Do you have, say, something that
16 would provide ADQ access in the future post
17 abandonment?

18 A. There wouldn't be anyone
19 around. So there isn't a plan, if that is
20 your question.

21 Q. What plan do you have for
22 security at the site?

23 A. To the extent there is no
24 funding, we can't provide for ongoing
25 security.

1 CEDAR CHEMICAL CORPORATION

2 MR. ETZKORN: No further
3 questions, Your Honor.

4 THE COURT: Any further
5 questions?

6 CROSS-EXAMINATION

7 BY MR. BARLOW:

8 Q. I am Chuck Barlow, from the
9 Mississippi Department of Environmental
10 Quality.

11 I want to make sure whether the
12 trust fund you are talking about is the trust
13 fund I know about.

14 You mentioned a trust fund of
15 let's say around \$600,000, I think you said
16 \$597,000.

17 Do you know what the trust fund
18 covers or for what it is set up for?

19 A. My understanding is that the
20 trust fund was set up to cover environmental
21 cleanup or mothball activities for certain
22 facilities that were listed, I believe, on
23 Exhibit A or B to a trust agreement.

24 Q. So your understanding is there is
25 a trust fund that exists that may apply to the

1 CEDAR CHEMICAL CORPORATION

2 West Helena, Arkansas site?

3 A. Yes.

4 Q. Is it your understanding this is
5 the trust fund that is a fund that may in part
6 also apply to the Vicksburg, Mississippi site?

7 A. That's correct.

8 Q. Are you aware there is a trust
9 agreement that was set up with the First
10 National Bank of Vicksburg, Mississippi that
11 applies only to the Mississippi site?

12 A. My understanding is there is one
13 trust which has in it \$597,000 and when I look
14 at the trust agreement it identifies three
15 separate facilities on it. It identifies
16 what was called the Vertac plants which was a
17 former plant, the West Helena facility and
18 Vicksburg facility. But that is based on
19 documents I have looked at.

20 Q. But you have seen documents, as
21 you have described?

22 A. Yes.

23 MR. ANGEL: If I could help
24 counsel. We have provided the Committee with
25 copies of the two trust fund agreements.

1 CEDAR CHEMICAL CORPORATION

2 There is one trust fund. We will provide the
3 same documents to both yourself and to counsel
4 for the State of Arkansas. No problem. We
5 have already provided this to the Committee,
6 but if you request it, no problem. But there
7 are two trust agreements.

8 THE COURT: Mr. Frankel, this is
9 cross-examination.

10 MR. ANGEL: Thank you, Your
11 Honor.

12 THE COURT: Go ahead.

13 Q. Are you aware of the date that
14 the trust fund agreement was executed?

15 A. I don't recall.

16 Q. Do you know whether the trust
17 fund you are talking about, the \$597,000 trust
18 fund, applies only to closure and post closure
19 or can it also be used for something else at
20 the facility?

21 A. I think it says on it "closure
22 and post closure." But I never discussed it
23 to be prepared to testify.

24 Q. If it talks about closure and
25 post closure it could not be applied to the

1 CEDAR CHEMICAL CORPORATION
2 treatment of the waste treatment ponds at the
3 Vicksburg facility?

4 A. Not having read the documents, I
5 don't know if I could answer it.

6 Q. Have you had any conversation
7 with the City of Vicksburg, Mississippi?

8 A. I have not spoken to the City of
9 Vicksburg.

10 MR. BARLOW: That is all I
11 have.

12 THE COURT: Any further
13 questions?

14 MR. ANGEL: Very briefly.

15 REDIRECT EXAMINATION

16 BY MR. ANGEL:

17 Q. With respect to the document that
18 has been marked as Debtor's Exhibit 1, is this
19 an estimate of remediation cost, going forward
20 and maintenance costs going forward after
21 October 31st of this year?

22 A. This is not remediation.

23 Q. This is just for?

24 A. For maintaining security and
25 maintaining the pond.

1 CEDAR CHEMICAL CORPORATION

2 Q. And this is your best guess?

3 A. Best guess, as of right now.

4 Q. Why did you develop this
5 document?

6 A. Basically, we developed it to get
7 an estimate of what the costs are going to be
8 required for whoever comes in to take over the
9 facilities, to maintain the pond, security and
10 maintenance of both the facilities.

11 Q. To try to help them, so they
12 would understand the extent of the task going
13 forward?

14 A. That is correct.

15 Q. And with regard to the records
16 you testified to, would you be prepared to
17 turn over the environmental records to the
18 respective State agencies and/or the EPA if
19 asked to do so?

20 A. Yes.

21 MR. ANGEL: I have no further
22 questions, Your Honor.

23 THE COURT: I have one
24 question.

25 If you store the records, who

1 CEDAR CHEMICAL CORPORATION

2 basically do you use for storage?

3 THE WITNESS: Typically, Your
4 Honor, what I would do is strike an
5 arrangement with a long-term storage facility,
6 put the records in storage and pay for it for
7 some length of time, generally seven or ten
8 years in advance to the extent the funds would
9 be made available.

10 THE COURT: Okay. You could
11 step down. Thank you.

12 (Witness excused.)

13 THE COURT: Call your next
14 witness.

15 MR. ANGEL: I call Mr. John
16 Miles, Your Honor.

17 J O H N M I L E S,
18 having been first duly sworn by the
19 Notary Public, was examined and
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. ANGEL:

23 Q. Good morning, Mr. Miles.

24 A. Good morning.

25 Q. Mr. Miles, would you tell the

1 CEDAR CHEMICAL CORPORATION

2 Court, please, what your educational
3 background is?

4 A. I have a bachelor of science in
5 chemical engineering from the University of
6 Mississippi.

7 Q. What year did you receive that?

8 A. 1971.

9 Q. Are you currently associated with
10 the Debtor, Cedar Chemical Corporation?

11 A. Yes, I am.

12 Q. And in what capacity, sir?

13 A. I am the vice president of
14 operations of Vicksburg Chemical and also West
15 Helena, Arkansas.

16 Q. How long have you been the vice
17 president of operations at Vicksburg Chemical?

18 A. Since 1991.

19 Q. And prior to that time, did you
20 have anything to do with a company known as
21 Cedar Chemical?

22 A. I did.

23 Q. In what capacity, sir?

24 A. I was the plant manager at
25 Cedar's West Helena, Arkansas plant.

1 CEDAR CHEMICAL CORPORATION

2 Q. For how long, sir?

3 A. From 19 -- well, from the
4 inception of 1985, whenever Cedar became a
5 company, to 1990.

6 Q. There came a time when you ceased
7 working at Cedar and then went over to
8 Vicksburg; was that in 1991?

9 A. That's correct.

10 Q. Did there come a time, sir, when
11 you renewed your employment by Cedar Chemical?

12 A. Yes, at the end of June, the
13 person who was the plant manager at Cedar,
14 West Helena resigned and I was assigned to the
15 management.

16 Q. Do you currently have those
17 duties today?

18 A. I still have those duties,
19 correct.

20 Q. Would you tell the Court what
21 your position entails as the plant manager of
22 each of these facilities? Could you explain
23 to the Court what those are?

24 A. Currently the duties are the
25 day-to-day operation and management of the

1 CEDAR CHEMICAL CORPORATION

2 facilities, which is anything which happens to
3 be at the time relating to the safety,
4 security of the plant, environmental activity
5 ongoing at both facilities, disposal of
6 materials in managing the shipment of products
7 that are sold, and in maintenance of the
8 facilities.

9 Q. Would environmental compliance,
10 compliance with environmental laws and
11 regulations and rules, would that come within
12 the purview of your job description?

13 A. Yes, it would.

14 Q. Were you in Court this morning
15 when Mr. Gund testified?

16 A. Yes, I was.

17 Q. Did you hear Mr. Gund use a
18 phrase "mothball"?

19 A. Yes, I did.

20 Q. Could you tell the Court what
21 your comprehension of that phrase is?

22 A. It is putting in particular
23 facilities of the plants in a state of being
24 cleaned out and stabilized for long-term
25 storage, I would say, or long-term static

1 CEDAR CHEMICAL CORPORATION

2 existence.

3 Q. In your mind, sir, are
4 remediation and mothball the same terms?

5 A. No, they are not.

6 Q. How would you differentiate
7 between the terms, sir?

8 A. Well, remediation activity is to
9 clean up or make whole prior activities that
10 may have caused contaminations of various
11 kinds to the environmental. Mothball is
12 preparing existing facilities for long-term
13 storage.

14 Q. Mr. Miles, were you the person
15 who basically prepared the program for the
16 mothball of both the Cedar and Vicksburg
17 facilities?

18 A. No, I was not. I participated
19 in.

20 The West Helena facility mothball
21 plant was initially started by the former
22 plant manager and I continued to do that as a
23 document that is not static, so it is updated
24 on a regular basis as we go through the
25 process.

1 CEDAR CHEMICAL CORPORATION

2 In the case of Vicksburg or plant
3 manager & I prepared the document originally,
4 and I continue to monitor and update that on a
5 routine basis.

6 Q. I am going to show you a document
7 with regard to Vicksburg and ask you -- first
8 let me give it to you and let me give it to
9 the other two counsel?

10 THE COURT: This is Debtor's
11 Exhibit 2.

12 MR. ANGEL: Yes, Your Honor.

13 THE COURT: It is being marked
14 for identification.

15 MR. ANGEL: Yes, Your Honor,
16 please.

17 (Document marked Debtor's Exhibit
18 2 for identification, as of this date.)

19 Q. I ask you, sir, have you ever
20 seen this document before?

21 A. Yes, I have.

22 Q. Did you help prepare this
23 document?

24 A. I have.

25 Q. Would you describe to the Court

1 CEDAR CHEMICAL CORPORATION

2 what this document is, sir?

3 A. It is a mothball status of two
4 facilities as of last Tuesday, the 1st of
5 October.

6 Q. And indeed, sir, is this a work
7 in progress that will conclude, hopefully, if
8 we have the funds, on October the 31st?

9 A. That is the plan presently.

10 Q. At the end of this program, could
11 you describe to the Court what will remain to
12 be done at the Vicksburg facility?

13 Let me try it another way. Will
14 there be environmental activity that will
15 still be required at the end of the program at
16 the Vicksburg facility?

17 A. Yes, there will.

18 Q. Will there be a requirement,
19 assuming that this program is completed, will
20 there be a requirement to remove discrete
21 items, either hazardous or potentially harmful
22 chemicals that are contained in drums or
23 packages, that is to remove them from the
24 property?

25 A. No, there wouldn't be.

1 CEDAR CHEMICAL CORPORATION

2 Q. That will be completed?

3 A. The plan is to complete that
4 activity, yes.

5 Q. Would that also include such
6 materials that are located in warehouses that
7 may belong to Vicksburg Chemical?

8 A. Yes.

9 Q. Will there still be a need, sir,
10 to remediate the soil at that facility?

11 A. Yes, there will be.

12 Q. Will there still be, sir, a need
13 to maintain a pond and remediate a pond at
14 that facility?

15 A. There will be a requirement to
16 continue to operate in order to meet our
17 permit requirements, permits of the State of
18 Mississippi, we have various operating permits
19 including the ponds.

20 Q. That would still be required?

21 A. Yes.

22 Q. But other than that, in terms of
23 removal of the discrete items and attendant to
24 what you have defined as mothball, that is
25 expected to be completed by October the 31st;

1 CEDAR CHEMICAL CORPORATION

2 is that correct?

3 A. Yes.

4 Q. Incidentally, sir, on this
5 document that I handed you, just to take
6 something, you have the north plant, and the
7 first item, "KNO3 reactor, mothball, water
8 wash/air purge," could you tell what was that
9 activity?

10 A. When we shut the plant after
11 filing on March 8 we actually prepared the
12 plant to be what we call in a warm idle
13 status, which is basically we were going to do
14 a maintenance turn around, which is cleaning
15 out the equipment to the level that we needed
16 to do maintenance. So we could enter it with
17 the personnel. That included emptying any of
18 the contents out to wherever they should go
19 and then air purge again and/or water washing
20 that equipment.

21 Q. So as, in effect, to render the
22 equipment inert?

23 A. Yes.

24 Q. Meaning so that it could not be
25 harmed by a leakage of some substance from the

1 CEDAR CHEMICAL CORPORATION

2 equipment?

3 A. Or harming anyone that might
4 enter that equipment.

5 Q. If I went down the items on the
6 list, your explanation of it, in terms of the
7 mothball to plant items would be similar?

8 A. Yes.

9 Q. Incidentally, the ponds that are
10 maintained at Vicksburg or the pond that is
11 maintained at Vicksburg, is that part of the
12 treatment process, meaning the treatment of
13 waste water that emanates from the plant?

14 A. Yes.

15 Q. And the plant is not in
16 operation?

17 A. The plant is not in operation,
18 no.

19 Q. Sir, in your opinion, has this
20 been a responsible program to at least render
21 the facility as best as it could be rendered,
22 in, quote, "a mothball position"?

23 A. As best we know, yes.

24 Q. And you helped develop that
25 program?

1 CEDAR CHEMICAL CORPORATION

2 A. Yes, I did.

3 MR. ANGEL: I would like to move
4 this in evidence, Your Honor, as the Debtor's
5 Exhibit 2, please.

6 THE COURT: Any objections?

7 MR. KENNEDY: No objection.

8 MR. ETZKORN: No.

9 THE COURT: It is received.

10 (Document marked Debtor's Exhibit
11 2 received in evidence, as of this date.)

12 Q. Sir, I ask you with regard to the
13 the Vicksburg facility, I will ask you similar
14 questions with regard to Cedar's West Helena
15 facility.

16 I will show you a document. Let
17 me hand it out first.

18 Have you ever seen this document
19 before that is moved for identification?

20 A. Yes.

21 Q. Is this a document that you
22 helped prepare?

23 A. I did.

24 Q. Is this document basically an
25 attempt to show what the status of the, quote,

1 CEDAR CHEMICAL CORPORATION

2 what the "mothball activities" at the Cedar
3 Chemical West Helena facility is and what it
4 will be?

5 A. That's correct.

6 Q. If I were to ask you with regard
7 to the first page of that document, West
8 Helena and AR, mothball empty, flushed and
9 washed, what would that be, sir?

10 A. The equipment in the particular
11 unit has been opened to any resolution or
12 material that has been removed and disposed of
13 and the equipment has been washed, flushed
14 out, inspected, being cleaned and stable.

15 Q. Once again, to render it inert?

16 A. That's correct.

17 Q. And this gives us the status of
18 what has been done and the end of the program,
19 hopefully, October 31, in terms of mothball;
20 is that correct?

21 A. That's correct.

22 Q. Sir, in your opinion, is this a
23 proper program for mothball?

24 A. Yes, it is.

25 Q. And is it one that you

1 CEDAR CHEMICAL CORPORATION

2 formulated?

3 A. I have worked with it, yes.

4 MR. ANGEL: Your Honor, I offer
5 this in evidence as Exhibit 3 of the Debtor.

6 THE COURT: Any objection?

7 MR. ETZKORN: No objection.

8 MR. KENNEDY: No objection.

9 (Document marked Debtor's Exhibit
10 3 received in evidence as of this date.)

11 Q. This program of mothball, sir, at
12 both of these plants, when do you expect that
13 you will complete that?

14 A. The current schedule is to be
15 completed at both facilities no later than
16 October 31 of this year.

17 Q. Incidentally, I didn't ask you
18 but I should ask you, with regard to the West
19 Helena facility, at the end of this program,
20 will mothball be complete and will there
21 remain items yet to be done in terms of quote,
22 "remediation"?

23 A. There will be, yes.

24 Q. And the items that would remain
25 for remediation and/or maintenance in the

1 CEDAR CHEMICAL CORPORATION

2 future would be with regard to a pond at that
3 facility?

4 A. Including a pond at the facility,
5 yes.

6 Q. And soil remediation?

7 A. And soil remediation also.

8 Q. Is that correct?

9 A. Correct.

10 Q. And, incidentally, the pond at
11 the West Helena facility was used amongst
12 other things, as part of the treatment process
13 for the waste water that emanated from that
14 property?

15 A. That's correct.

16 Q. For the maintenance of that
17 property?

18 A. That's correct.

19 Q. For the operation of that plant?

20 A. Yes.

21 Q. But other than those items, is it
22 expected that the program at West Helena will
23 conclude with hazardous materials and
24 potential contaminants that are in discrete
25 containers having been removed from either the

1 CEDAR CHEMICAL CORPORATION

2 facility or from warehouse facilities and
3 either sold or disposed of?

4 A. That's correct.

5 MR. ANGEL: I have no further
6 questions, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. KENNEDY:

9 Q. Good morning, Mr. Miles. How
10 are you?

11 A. Fine.

12 Q. Mr. Miles, if I could redirect
13 your attention to Debtor's Exhibit 2.

14 A. Yes.

15 Q. That is the list of activities to
16 be completed at Vicksburg; is that correct?

17 A. Correct.

18 Q. I want to make sure I am not
19 confusing 2 and 3.

20 Mr. Miles, you testified earlier
21 you were assigned to your position at Cedar in
22 Vicksburg. Who assigned you?

23 A. Excuse me, I didn't hear your
24 question.

25 Q. You testified you were assigned

1 CEDAR CHEMICAL CORPORATION

2 to this position. Who assigned you?

3 A. The president of the company at
4 that time.

5 Q. Who was the president?

6 A. Mr. Cohen, I believe.

7 Q. Is he currently the president of
8 Cedar Vicksburg?

9 A. No.

10 Q. Was he the president at the time
11 he assigned you?

12 A. I believe he was -- I am not sure
13 of the exact title.

14 THE COURT: He testified to a
15 lot of titles.

16 MR. KENNEDY: Mr. Miles
17 testified he was assigned to be essentially
18 plant manager when he began at Cedar and then
19 at Vicksburg. I was trying to break down who
20 assigned him to work at Cedar first.

21 THE COURT: In 1985?

22 MR. KENNEDY: Yes.

23 THE COURT: And who assigned him
24 to work at Vicksburg?

25 A. Maybe I could tell you that.

1 CEDAR CHEMICAL CORPORATION

2 Q. Yes.

3 A. I was employed by Vertac Chemical
4 in 1980. Cedar purchased certain assets of
5 Vertac, I think, in '85. At that time the
6 current plant manager was retired and I was
7 promoted to that.

8 Q. At some time you were assigned to
9 be plant manager at Vicksburg?

10 A. Correct. Vicksburg was operated
11 as a division of Cedar Chemical and in 1991 I
12 was transferred from West Helena to Vicksburg.

13 Q. And it is your testimony Mr.
14 Cohen assigned you?

15 A. I am not sure what his exact
16 title was.

17 Q. He was with the company at that
18 time?

19 A. And Mr. Morgan who was the
20 executive vice president of the company also.

21 Q. Drawing your attention to
22 Debtor's Exhibit 2. Is it your understanding
23 -- and I would like you to begin by focusing
24 on all of the items which already have an
25 action date listed here -- is it your

1 CEDAR CHEMICAL CORPORATION

2 testimony, is it your testimony today that all
3 of the actions that were to be completed by
4 October 2002, have, in fact, been completed?

5 Actually, Mr. Miles, I will do it
6 bit by bit, so if you focus on page 1, the
7 very first page of Debtor's Exhibit 2.

8 A. Yes.

9 Q. There are a number of
10 transactions with dates from March 8, 2002.

11 A. Right.

12 Q. Going through October 2002.

13 Is it your testimony that all of
14 these activities have, in fact, been
15 completed?

16 A. Yes, they have.

17 Q. And have you personally monitored
18 the completion of these activities?

19 A. I have inquired of the people who
20 are currently doing the work and they assured
21 me it was done.

22 Q. There are three entries at the
23 bottom stating "not applicable". Could you
24 explain what that means?

25 A. That means those items are not

1 CEDAR CHEMICAL CORPORATION

2 scheduled to be mothballed and are currently
3 operating at the facility, to maintain the
4 ongoing current operations of the pond,
5 mainly.

6 Q. So the cooling water system will
7 have to continue in operation even if the
8 property is abandoned, is that correct?

9 A. That's correct.

10 Q. But you have no plan for the
11 continued operation for the cooling water
12 system in the event of an abandonment?

13 A. I have not, no.

14 Q. What is the intent when
15 abandonment occurs? You just make sure
16 everyone leaves and you walk out the door and
17 that is it?

18 A. Well, I don't have any intent.
19 I wouldn't have any ability to do anything.

20 Q. What, practically speaking, will
21 occur on that day?

22 A. Practically speaking, I will
23 assume that I will allow the State of
24 Mississippi to know that we are leaving the
25 site and they will do whatever they need to do

1 CEDAR CHEMICAL CORPORATION

2 at the time.

3 Q. But the intent is?

4 A. If they instruct us not to leave,
5 we won't leave but I don't know how we will
6 get paid.

7 Q. Excuse me?

8 A. If they told us we couldn't
9 leave, without people -- people have to decide
10 that, unless they have some way to bring in a
11 contractor. We could no longer continue to
12 expect people to work at the plants. We
13 would have to abandon the site because they
14 wouldn't be there.

15 I mean that is a legal
16 question. I am not sure exactly what would
17 happen, if you know, to tell the truth. I
18 don't have any --

19 Q. I only ask you what you intend to
20 do.

21 A. I intend to leave the site.

22 Q. And the same is true for the air
23 compression and pond and carbon system, those
24 things would have to be continued in operation
25 and that is why there is no actual completion

1 CEDAR CHEMICAL CORPORATION

2 date?

3 A. That is correct, in order to
4 maintain the operation of the pond that would
5 require those items.

6 Q. Mr. Miles, I would like to have
7 you turn to page 2 of Debtor's Exhibit 2.
8 Again, I don't want to get into repetitive
9 questioning, but for all of the dates that are
10 already past, is it your testimony here today
11 that all of the products that were to be
12 disposed of by September 30, 2002, have those,
13 in fact, been disposed of?

14 A. Those items that say "product
15 disposal," those have been disposed of, yes.

16 Q. And you personally monitored that
17 to make sure they have been disposed?

18 A. Yes.

19 Q. Very good.

20 You will observe again on page 2
21 and going over a little over to page 3, there
22 are a number of items where the action date is
23 October 31, 2002; is that correct?

24 A. That's correct.

25 Q. But am I correct in understanding

1 CEDAR CHEMICAL CORPORATION

2 you do not have the funding to engage in these
3 activities with the termination date of
4 October 31, 2002?

5 A. I have funding today to operate
6 today. That is all I know.

7 Q. Do you have funding until the
8 14th of October to continue to engage in
9 product disposal?

10 A. As far as I know, I do, yes.

11 Q. Do you have any funding after
12 October 14 to engage in product disposal.

13 A. I don't know.

14 Q. You don't know.

15 What was the basis of your
16 calculation that it would take until October
17 31, 2002, to dispose of these products?

18 A. It is really based on the
19 development of disposal profiles for these
20 materials or sale of these materials and then
21 the physical shipping of them to the eventual
22 recipient.

23 Q. At the time you --

24 A. It is our best estimate as of
25 last week.

1 CEDAR CHEMICAL CORPORATION

2 Q. But at the time you set up the
3 schedule, were you made aware that you did
4 not, in fact, have funding past the 14th of
5 October?

6 A. No.

7 Q. When did you learn that?

8 A. Today.

9 Q. So today was the first time you
10 learned then that this action schedule that
11 had been set up was really not one that you
12 had the authority to carry out; is that
13 correct?

14 A. Correct.

15 Q. So what is the plan now if you
16 don't have the ability to dispose of these
17 products by October 14? Will you be able to
18 dispose of all these products that are given
19 an an action date here of October 31, no later
20 than October 14?

21 A. I don't know.

22 Q. What process have you put in
23 place to insure that these products are
24 properly disposed of?

25 A. In this case some of them are

1 CEDAR CHEMICAL CORPORATION

2 actually products and they have been sold as
3 products to people, others are raw materials
4 that will have to be disposed of to proper
5 offsite disposal facilities and in place, and
6 there is a profile developed for that and that
7 cost is given and we agreed to the cost and
8 the disposers then have the material shipped
9 to them and they dispose of it.

10 Q. How long does that process
11 ordinarily take?

12 A. It ordinarily takes, the profile
13 takes a week, roughly, and the disposal time
14 just depends on the transportation
15 requirements. But I would say anywhere from
16 one to three weeks.

17 Q. You would say from one to three
18 weeks?

19 A. Yes.

20 Q. But as you look at these products
21 today, and I won't go through each and every
22 one of them because I think that would take
23 too much time, as you go through these
24 products are you prepared to state for all
25 these products that have to be disposed of by

1 CEDAR CHEMICAL CORPORATION
2 October 31, 2002, that you could go down the
3 list and identify the buyers for each of
4 them? I am not asking you to do that now. I
5 am asking whether you in your head you could
6 go down and list who the buyers are going to
7 be for each of these products?

8 A. The buyer and the expected
9 disposal.

10 Q. You could do it now. Who
11 assisted you in working on this chart?

12 A. This particular chart, Gerald
13 MacDeem, who is the plant manager, and Steve
14 Boswell, who is the environmental engineer and
15 Yehuda Yoked, our president.

16 Q. Are all three of those
17 individuals officials of Vicksburg?

18 A. They are all employees at
19 Vicksburg. I don't know about officials.

20 Q. They are all employees at
21 Vicksburg.

22 Is Mr. Yoked an officer of TRI?

23 A. I have no idea.

24 Q. But Mr. Yoked participated in
25 developing the schedule for the disposal of

1 CEDAR CHEMICAL CORPORATION

2 product; is that correct?

3 A. Yes.

4 Q. I understand a number of these
5 product have been sold.

6 A. Yes.

7 Q. A number of them had been, but a
8 number of them will have to be simply disposed
9 of?

10 A. Yes.

11 Q. How do you intend to do that?

12 A. We traditionally used two
13 nationally used, Pollution Controls,
14 Incorporated and Browning Ferris Industries.

15 Q. Do you know if you need any
16 permits from the State or even the Federal
17 government to engage in the disposal method
18 you selected?

19 A. As far as I know, we do not need
20 them.

21 Q. Mr. Miles, I would like to
22 briefly call your attention to something on
23 page 3.

24 I believe we have spoken about
25 the first half of the items listed here in, we

1 CEDAR CHEMICAL CORPORATION

2 have spoken about your efforts to find a buyer
3 or if you could not find a buyer find a way to
4 dispose of the products?

5 A. That's correct.

6 Q. What you have said about the
7 items listed on page 2 would also apply to the
8 items listed on page 3, that first half; is
9 that correct?

10 A. Yes.

11 Q. Mr. Miles, I would like to call
12 your attention to midway down the page, there
13 is a KNO₃, KNO₃ mix, 600 tons, to be disposed
14 of by October 31, 2003.

15 Is that a typo or is that
16 actually the disposal date?

17 A. It currently is our expected
18 disposal date.

19 Q. So your expected disposal date of
20 those 600 tons of mix is not until 2003; is
21 that correct?

22 A. That's correct.

23 Q. I just wanted to make sure it
24 wasn't a typo.

25 How are you going to dispose of

1 CEDAR CHEMICAL CORPORATION

2 these products which you did not anticipate
3 being able to dispose of until 2003 of next
4 year, by October 14?

5 A. I don't know.

6 Q. I would also call your attention
7 to the second half of the items listed on page
8 3, where again it is listed as in not
9 applicable, you don't have a particular end
10 date in mind. Do you see those entries?

11 A. Yes.

12 Q. Am I correct in understanding,
13 just as you answered before, those things will
14 have to continue in their operation once the
15 plant is shut down and you and your folks
16 leave?

17 A. Those will be things for current
18 ongoing operation and whoever has possession
19 of the site can use them for their ongoing
20 operation at site.

21 Q. Basically, on what we see in
22 these charts, it is clear at least to you the
23 waste water treatment facility will have to be
24 maintained?

25 A. Yes.

1 CEDAR CHEMICAL CORPORATION

2 Q. Do you have a plan for
3 maintaining the waste water treatment
4 facility?

5 A. No, I don't.

6 Q. Are you aware whether there is
7 any used carbon spread on the carbon
8 absorption units throughout the facility?

9 A. There is, yes.

10 Q. Does the usual current plan
11 provide for the removal of that carbon?

12 A. No.

13 Q. Next, do you have a plan in place
14 to eliminate all contributing source areas to
15 ground water pollution such as hot spots or
16 other contaminated soil?

17 A. Currently we do have a plan for
18 that, yes.

19 Q. And the plan is that whoever
20 comes in operates the waste water treatment
21 facility?

22 A. Currently the interim measures
23 are operating that.

24 Q. Is there a fence around the site?

25 A. Yes.

1 CEDAR CHEMICAL CORPORATION

2 Q. Are there warning signs posted on
3 the fence?

4 A. Yes.

5 Q. Once the plant is abandoned, will
6 you have any security guard make sure that
7 trespassers or other folks aren't able to get
8 on the ground?

9 A. I will not, no.

10 Q. You will not. Do you have any
11 plan to do that?

12 A. I do not have one, no.

13 Q. Thank you for working with me on
14 the Vicksburg exhibit.

15 Now I would like to turn your
16 attention to Defendant's Exhibit 3, the Cedar
17 exhibit.

18 Mr. Miles, the opening page, that
19 is page 1 of Defendant's Exhibit 3 of Cedar
20 Chemical sets forth seven specific units that
21 are in place at the Cedar plant.

22 Could you very briefly explain to
23 me how the plant is set up, are there
24 geographical units, do they serve different
25 functions?

1 CEDAR CHEMICAL CORPORATION

2 A. They were basically geographical
3 units, they are structures structures, and
4 they are strung out down through the plant one
5 after the other and they make a loop around.
6 So it is typical of each of these units that
7 it has been used for various processes.

8 Q. So 1 through 7 are just basically
9 like houses on a street?

10 A. Yes.

11 Q. The effluent plants, are they
12 similar to waste water treatment facilities?

13 A. Yes.

14 Q. As you sit here today are the
15 tasks of mothball unit 1 through 7, in fact,
16 completed?

17 A. Yes.

18 Q. And you have personally monitored
19 that?

20 A. I have inquired of the people who
21 did the work and they have assured me it was
22 done.

23 Q. Am I correct in thinking that the
24 effluent pond will have to be maintained in
25 much the same way as the water?

1 CEDAR CHEMICAL CORPORATION

2 A. The Cedar facility has various
3 operating permits from the State of Arkansas
4 and their requirements under those for
5 operation.

6 Q. Mr. Miles, if you could turn to
7 page two of the Cedar Chemical chart. I will
8 ask you similar questions but since this is
9 our second time through these, hopefully, we
10 may be able to go through them more speedily.

11 Again, for all of this list for
12 which the action completion date has already
13 occurred, is it your testimony here today that
14 those actions have, in fact, been completed,
15 that all of those items listed have been
16 disposed of?

17 A. That's correct.

18 Q. Am I correct in understanding
19 there are no other hazardous substances or
20 waste or chemicals of any kind that are not
21 listed on Defendant's Exhibit 3 for the Cedar
22 site?

23 A. Not that I know of.

24 Q. I should have asked you that same
25 question for the Vicksburg site.

1 CEDAR CHEMICAL CORPORATION

2 Turning back briefly to
3 Vicksburg, are there any hazardous substances,
4 chemicals, caustic substance or waste that are
5 at the Vicksburg site but are not listed on
6 Defendant's Exhibit 2?

7 A. Not that I know of. We tried to
8 make a fairly exhaustive list.

9 Q. You testified with regard to the
10 the Vicksburg plant, that Mr. Yehuda helped
11 draw up this plan for disposal of these
12 substances?

13 A. Basically he developed the
14 particular format.

15 Q. Did he participate in working on
16 the Cedar Chemical plant?

17 A. Yes.

18 Q. So he is involved with both
19 facilities?

20 A. Yes.

21 Q. Is Mr. Yehada generally involved
22 with determining environmental compliance at
23 both of the facilities?

24 A. Yes.

25 Q. Who is in charge of that?

1 CEDAR CHEMICAL CORPORATION

2 A. I am for Vicksburg and since the
3 end of June of this year for the West Helena
4 facility.

5 Q. Mr. Miles, all of my questions
6 are regarding the completion of actions for
7 which the actions have already past, bringing
8 us about halfway down page 3 of Defendant's
9 Exhibit 3.

10 Am I correct in understanding all
11 of the things that should have been done have
12 been done?

13 A. To the best of my knowledge, yes.

14 Q. Am I correct in understanding
15 that just as was the case with the Vicksburg
16 facility for all of those items that were to
17 be disposed of by the action date of October
18 31, 2002, you now must dispose of all them by
19 October 14, 2002 or they will simply remain at
20 the facility following abandonment; is that
21 correct?

22 A. That's correct.

23 Q. Again, I want to make sure my
24 assumptions are going to be the same for both
25 of these facilities.

1 CEDAR CHEMICAL CORPORATION

2 Turning to page 4, you list a
3 number of substances toward the end which you
4 describe as "ponds treatment". I am not sure
5 what that is.

6 What does "post today" mean? Is
7 it your testimony these will be disposed of
8 through the pond?

9 A. They are used to operate the
10 pond, operating materials for the pond.

11 Q. So when chemicals are filtered
12 through the pond, as it was, these are the
13 things that you add to the pond to effectively
14 neutralize these substances before they go
15 into the water system?

16 A. It is what is required to
17 maintain the operation of the facility.

18 Q. Am I also correct in
19 understanding while you have arranged buyers
20 -- let me ask that question in a different
21 way.

22 Have you arranged buyers for some
23 of the substances you have listed here?

24 A. Yes.

25 Q. For the ones you do not intend to

1 CEDAR CHEMICAL CORPORATION

2 sell, do you believe that you will be able to
3 dispose of them through a different means?

4 A. Yes.

5 Q. Have you looked into whether you
6 are required to take any permits to dispose of
7 them in those means?

8 A. To the best of my knowledge, no
9 permits are required.

10 Q. Let me ask you about items that
11 are not specifically on the Cedar list. Do
12 you have a plan to eliminate contributing
13 source areas to ground water pollution for the
14 plant other than the waste water pollution
15 system?

16 A. No.

17 Q. So you have no soil reclamation
18 program in the plant plan?

19 A. Yes.

20 Q. If the facilities are abandoned,
21 someone else will have to take the burden of
22 soil reclamation?

23 A. Yes.

24 Q. If the facility is abandoned,
25 someone will have to take it upon themselves

1 CEDAR CHEMICAL CORPORATION

2 for the requirement to maintain the waste
3 water treatment system if and until such a
4 process can occur?

5 A. That's correct.

6 Q. Am I correct in understanding
7 there is a disposal vault under the main
8 maintenance building at Cedar?

9 A. Yes.

10 Q. So there is a big sealed vault
11 under there; am I correct?

12 A. Yes.

13 Q. Do you know what is in the vault?

14 A. Drum materials.

15 Q. When you say "drum materials,"
16 did you just mean drums?

17 A. Drums containing materials.

18 Q. Containing materials.

19 Do you know what materials are in
20 the drums?

21 A. I don't specifically know what
22 materials are in the drums, no.

23 Q. Is there anywhere in the books
24 and records of Cedar that sets forth what is
25 contained in those drums?

1 CEDAR CHEMICAL CORPORATION

2 A. Not currently, no.

3 Q. Do you know when the drums were
4 put down there?

5 A. Well, I think it was in 1976,
6 maybe. I am not positive about that.

7 Q. Does your plan for the remainder
8 of the mothball activity of the plant provide
9 any sort of plan for handling those drums?

10 A. No.

11 Q. Do you know how many drums are
12 down there?

13 A. No.

14 Q. Are we talking dozens or
15 hundreds?

16 A. More than dozens.

17 Q. More than dozens, fewer than
18 hundreds?

19 A. Fewer than hundreds.

20 Q. Let's say several dozen?

21 A. That would be fine.

22 Q. Would that be an accurate minimum
23 estimate?

24 A. Yes.

25 Q. There are several drums buried

1 CEDAR CHEMICAL CORPORATION

2 beneath the vault and you don't know what they
3 contain or what they could do?

4 A. That's correct.

5 Q. I would like to ask you some
6 questions about your involvement with officers
7 of TRI. Have you had any involvement with the
8 officers of Trans Resources, Inc.?

9 A. Yes.

10 Q. Who have you had involvement
11 with?

12 A. What time period?

13 Q. Let's talk about a year before
14 the filing date and we then we will talk about
15 postpetition.

16 A year before the filing date did
17 you ever interact with any officers of Trans
18 Resources?

19 A. I did, Bill Dowd.

20 Q. What was his role at Trans
21 Resource?

22 A. At the time he was CFO and then
23 COO.

24 Q. Did you know if he was also a
25 director of Cedar?

1 CEDAR CHEMICAL CORPORATION

2 A. No.

3 Q. Do you know whether he was also a
4 director of Vicksburg?

5 A. No.

6 Q. Did you know in the year
7 proceeding the filing of the bankruptcy case,
8 which is the period in which I am asking about
9 your contacts with him, whether he was paid by
10 Cedar or Vicksburg?

11 A. I have no idea.

12 Q. Who is the next individual from
13 Trans Resource, Inc. with whom you dealt?

14 A. Michael Arrabach (phonetic).

15 Q. What was Mr. Arrabach's position?

16 A. He as in tax accounting, I
17 believe.

18 Q. Did you know whether he was also
19 an officer of Cedar?

20 A. No.

21 Q. Did you know whether he was also
22 an officer of Vicksburg?

23 A. No.

24 Q. Do you know if the year
25 proceeding the bankruptcy filing, which is the

1 CEDAR CHEMICAL CORPORATION

2 period I am asking you about, he was paid by
3 either are Cedar or Vicksburg?

4 A. I had no idea.

5 Q. Was there anyone else from Trans
6 Resource, Inc., with whom you dealt in the
7 year proceeding the bankruptcy filing?

8 A. I did speak with Harry Arriginer.

9 Q. Who is Harry Arriginer
10 (phonetic)?

11 A. Chairman of Trans Resources.

12 Q. Do you know whether he is an
13 officer of Cedar?

14 A. I don't know.

15 Q. Do you know whether he is an
16 officer of Vicksburg?

17 A. I don't know.

18 Q. What would you talk about with
19 him?

20 A. I just saw him in an office when
21 I was speaking with Mr. Dowd.

22 Q. What office?

23 A. The TRI office in New York.

24 Q. So you would come from New York
25 each time to talk to Trans Resources, Inc.?

1 CEDAR CHEMICAL CORPORATION

2 A. Yes.

3 Q. How often would you come?

4 A. Sporadically, once, maybe twice a
5 year.

6 Q. What were the topics that you
7 discussed with TRI?

8 A. Budgets, mainly.

9 Q. I'm sorry if I cut you off.

10 A. No. It was usually related to
11 marketing or budgets; those kind of things.

12 Q. Did you ever discuss
13 environmental compliance and environmental
14 management with officers of TRI?

15 A. I am sure I did, yes.

16 Q. Do you remember your
17 conversations with him?

18 A. With all of these people during
19 board meetings.

20 Q. Board meetings of which entity?
21 Trans Resources Inc., Cedar or --

22 A. Cedar/Vicksburg.

23 Q. I'm sorry?

24 A. I should say board. Management
25 meetings of Cedar/Vicksburg.

1 CEDAR CHEMICAL CORPORATION

2 Q. When you say management meetings
3 of Cedar/Vicksburg, did you mean to say the
4 same management meeting served as the meeting
5 of Cedar and Vicksburg simultaneously?

6 A. On occasion.

7 Q. Was that generally the case or
8 sometimes the case?

9 A. Sometimes the case.

10 Q. Did officials who are officials
11 of TRI attend those meetings?

12 A. Yes.

13 Q. Did they give you any direction
14 concerning environmental compliance and
15 disposal of waste?

16 A. They expected us to be in
17 compliance.

18 Q. I would like to now approach the
19 witness with a one-page document taken from
20 the Cedar web page.

21 Mr. Miles, have you ever seen
22 this document before?

23 A. No.

24 Q. Have you ever had occasion to go
25 to the Cedar website before?

1 CEDAR CHEMICAL CORPORATION

2 A. No, I haven't.

3 MR. KENNEDY: Your Honor, I
4 would like to offer this.

5 THE COURT: On the basis of his
6 authentication of it?

7 MR. KENNEDY: I would like to
8 offer this on his authentication as to the
9 truth of the statement in the first paragraph.

10 THE COURT: He has never seen
11 it.

12 Is there any object to the
13 receipt of this document? First of all, we
14 will call it Exhibit A?

15 MR. KENNEDY: A.

16 I am only asking him to speak to
17 that.

18 THE COURT: Is there any
19 objection to the entry of this exhibit?

20 MR. ANGEL: As a generic
21 statement, I have no objection to it. But in
22 terms of this witness authenticating this
23 document, obviously he just can do it.

24 THE COURT: Well. The question
25 is whether you have any objection to its

1 CEDAR CHEMICAL CORPORATION.

2 receipt. If you don't, he doesn't need the
3 witness to authenticate the document.

4 MR. ANGEL: Your Honor, no, I
5 have no problem if counsel wants to say that
6 he went and picked off this from the internet
7 as being part of Cedar's website. I suppose I
8 would take that authentication and that
9 proffer.

10 THE COURT: Do you make that
11 representation?

12 MR. ANGEL: What that means to
13 this witness, I have no idea.

14 MR. KENNEDY: Counsel, I am
15 certainly prepared to represent that I have
16 gone to the internet and I have printed this
17 off the internet myself, personally.

18 THE COURT: Is there any
19 objection to its receipt?

20 MR. ANGEL: No.

21 THE COURT: It is received as
22 Government Exhibit A.

23 (Document marked Government
24 Exhibit A received in evidence, as of this
25 date.)

1 CEDAR CHEMICAL CORPORATION

2 MR. KENNEDY: I want to focus on
3 what is in the first paragraph there.

4 Q. I would like to call your
5 attention to the last line which states that
6 top level TRI personnel monitor safety an
7 environmental premises constantly and expect
8 all staff at all levels to be participating
9 and be proactive.

10 Have you seen this?

11 A. I have no idea if it is true for
12 Cedar. I, myself, since Cedar is involved --
13 TRI has not been involved since the time I
14 have been back responsible for Cedar.

15 Q. With regard to Vicksburg; is that
16 correct?

17 A. I will say never.

18 Q. Did you routinely send reports or
19 schedules to Trans Resource, Inc.?

20 A. No.

21 Q. Did you routinely get telephone
22 calls from Trans Resources, Inc.

23 A. Yes.

24 Q. I had been asking you about your
25 knowledge and experience with personnel and

1 CEDAR CHEMICAL CORPORATION
2 officer of Trans Resources, Inc., when we
3 embarked on this line of questioning.

4 Now I would like to go back to
5 the individual you identified before. The
6 last person you identified was Mr. Arriginer
7 and the previous individuals you identified
8 were William Dowd and Mike Arrabach; is that
9 correct?

10 A. Yes.

11 Q. Are there any other individuals
12 who are officers of TRI with whom you dealt?

13 A. Over the years, yes.

14 Q. I should have repeated in
15 phrasing this question I was talking about the
16 year proceeding the bankruptcy filing.

17 A. I may have spoken to John
18 Jureller on the telephone. I may have seen
19 him in the office.

20 Q. Do you know what position he had?

21 A. I understand he took over as CFO
22 when Bill Dowd became the CFO of Trans
23 Resource.

24 Q. Did you know that he was an
25 officer of Cedar?

1 CEDAR CHEMICAL CORPORATION

2 A. No.

3 Q. Did you know he was also an
4 officer of Vicksburg?

5 A. No.

6 Q. Is there anyone else you dealt
7 with?

8 A. I know Louise Swimmer. She is a
9 secretary. She's a very nice lady.

10 Q. I won't cross-examine you on that
11 testimony.

12 Once the bankruptcy petition was
13 filed, did the cast of characters change?

14 A. I guess, yes.

15 Q. How?

16 A. Yehuda, who had been my superior
17 and an officer of Vicksburg, became the
18 president of Cedar Chemical at that time.

19 Q. Do you know Yehuda Yoked to be an
20 an officer of Trans Resources, Inc.?

21 A. I have no idea.

22 Q. Let me go back to an earlier
23 question. You stated you had gone to the
24 Trans Resources offices in New York?

25 A. Yes.

1 CEDAR CHEMICAL CORPORATION

2 Q. And you said you went two or
3 three times a year?

4 A. Periodically, yes.

5 Q. Did you ever see Yehuda Yoked in
6 the course of your business?

7 A. Yes.

8 Q. How often was he there? Was he
9 there every trip or sometimes?

10 A. He was usually there every trip
11 because we usually went together.

12 Q. Do you know what other positions
13 Yehuda Yoked has held?

14 A. Well, not in -- not in detail,
15 but he has held other positions in other
16 companies, yes.

17 MR. KENNEDY: I have no further
18 questions of this witness.

19 THE COURT: Any questions?

20 CROSS-EXAMINATION

21 BY MR. ETZKORN:

22 Q. Mr. Miles, do you know the ground
23 water underneath the Cedar Chemical site is
24 highly contaminated?

25 A. I have seen reports that were

1 CEDAR CHEMICAL CORPORATION
2 generated by the the consent order work that
3 has been ongoing that has the list of
4 contaminants. I don't know about highly
5 contaminated. I don't have an opinion about
6 that, but they were there.

7 Q. Are you aware that the ground
8 water has migrated off site?

9 A. According to those reports, yes.

10 Q. And the ground water has migrated
11 approximately a mile offsite?

12 A. I am not sure of the distance,
13 but yes, some distance.

14 Q. Were you aware that the ground
15 water is contaminating wells of adjacent
16 property owners?

17 A. According to these reports, yes.

18 Q. Mr. Miles, were you aware that
19 the soil on the Cedar Chemical site was highly
20 contaminated?

21 A. These same reports give, I guess,
22 an analysis of the various soil contaminations
23 of the sites. I have seen those, yes.

24 Q. Does Cedar have a plan to correct
25 the soil contamination problem?

1 CEDAR CHEMICAL CORPORATION

2 A. No.

3 Q. Does Cedar have a plan to correct
4 the ground water contamination migration
5 problem?

6 A. No.

7 Q. Let me ask you this, Mr. Miles.
8 Were you aware there was a large drum vault on
9 the Cedar Chemical site?

10 A. Yes.

11 Q. What plan does Cedar have to
12 correct that problem?

13 A. None that I know of.

14 Q. Let me ask you this, and I just
15 have a few more questions, Mr. Miles.

16 Debtor's Exhibit 3, page 3,
17 basically, there is a number of products
18 scheduled to be disposed of on 10/31/2002.

19 We have heard previous testimony
20 that the budget is scheduled to expire on
21 October 14.

22 Let me ask you this question.
23 What will happen to all these products that
24 are in the warehouse at the moment, if the
25 budget does expire on October 14?

1 CEDAR CHEMICAL CORPORATION

2 A. Anything that hasn't physically
3 been removed at that time will still be in the
4 warehouse.

5 Q. So the warehouse may be full of
6 items which may be hazardous substances if you
7 ran out of money on the 14th?

8 A. I don't know about "full," but
9 there could potentially be some products
10 there.

11 Q. Let me ask you this. What
12 future plan do you have to provide future
13 access for ADQ and EPA to the Cedar Chemical
14 site?

15 A. I have no plan.

16 Q. Let me ask you about what plan do
17 you have to run the ponds at Cedar Chemical?

18 A. We are running them every day to
19 date.

20 Q. What plan do you have to run the
21 pond post abandonment?

22 A. I have no plans.

23 Q. If those ponds were to fill as a
24 result of storage water what would happen
25 then?

1 CEDAR CHEMICAL CORPORATION

2 A. I would assume they would
3 overflow.

4 Q. What plan do you have to provide
5 security at Cedar Chemical post abandonment?

6 A. I have no plans.

7 MR. ETZKORN: No further
8 questions, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. BARLOW.

11 Q. Remind me of your title at
12 Vicksburg.

13 A. Vice president of operations.

14 Q. I am looking at Debtor's Exhibit
15 1, the mothball expense report. I just
16 wonder if you could enlighten me how much of
17 the mothball expenditures at the Vicksburg
18 facility would be necessary just to keep the
19 waste water treatment system up and running
20 properly?

21 A. I didn't participate in the
22 preparation of that. But I would assume the
23 ongoing estimate made by Mr. Gund would be
24 satisfactory.

25 Q. Let me ask you. We have \$87,000

1 CEDAR CHEMICAL CORPORATION
2 for payroll and related costs. Will it take
3 \$87,000 worth of payroll to keep the waste
4 water treatment system up and running?

5 A. Just the waste water treatment
6 system?

7 Q. Just that at the Vicksburg
8 facility.

9 A. I don't know.

10 Q. Will it take \$75,000 in gas and
11 electric?

12 A. Yes.

13 Q. Would it cost \$3,000 for the
14 telephone system per month?

15 A. I am not sure.

16 Q. Does Cedar Chemical have a permit
17 that requires it to operate that waste water
18 treatment facility?

19 A. It does.

20 Q. And that waste water treatment
21 facility receives both processed waste water
22 and storm water; is that correct?

23 A. That's correct.

24 Q. So if you got a permit that
25 requires you to run the facility, run the

1 CEDAR CHEMICAL CORPORATION

2 waste water of the facility, who is that
3 from?

4 A. The Mississippi Department of
5 Environmental Quality.

6 Q. What will happen if you stop
7 operating that system?

8 A. The company will be in violation
9 of its permit requirements.

10 Q. And therefore it would be a
11 violation of State law; is that correct?

12 A. Correct.

13 Q. And your plan right now if the
14 facility is abandoned is to stop operating the
15 waste water treatment of the pond?

16 A. I will have no way to operate it.

17 Q. So the only plan is to stop
18 operating, is for Vicksburg Chemical to stop
19 operating the waste water treatment plants?

20 A. Yes.

21 Q. So your plan is to violate State
22 law?

23 THE COURT: I think you are
24 becoming argumentative at this point.

25 Please move on to the next

1 CEDAR CHEMICAL CORPORATION

2 question. He will go look for another job.

3 Q. And certainly, Mr. Miles, I was
4 referring to the company, not you,
5 personally.

6 But I would like to ask you are
7 you the responsible corporate officer required
8 to sign the discharge monitoring reports
9 required under the Clean Water Act for the
10 Vicksburg facility?

11 A. I was the -- you mean the EPDS
12 reports?

13 Q. Yes.

14 A. I am that person, yes.

15 Q. Doesn't the State of Mississippi
16 already have statutory authority per the NBE
17 contract to come in and inspect your site
18 whenever they deem it necessary?

19 A. They have it and they do.

20 MR. BARLOW: We appreciate your
21 gracious offer to provide it to us in
22 writing. Thank you. That is all.

23 THE COURT: Any redirect?

24 MR. ANGEL: Very briefly.

25 REDIRECT EXAMINATION

1 CEDAR CHEMICAL CORPORATION

2 BY MR. ANGEL:

3 Q. Mr. Miles, in Exhibits 2 and 3,
4 which you testified about, we have very often
5 in those exhibits the October 31st date.

6 A. That's correct.

7 Q. Of 2002. Is that an outside
8 date?

9 A. That is an anticipated "no later"
10 date.

11 Q. And many of those activities will
12 indeed be concluded before that date?

13 A. That is correct.

14 Q. And the hope is that there will
15 be some funding after that date so for those
16 items that are not completed by, let's say,
17 the 14th of October, that they would be
18 completed if there is funding?

19 A. Yes, if there is funds they will
20 be completed.

21 Q. With the exception of again the
22 one item that is labeled 22,003?

23 A. That's correct.

24 Q. You testified as to materials
25 that are contained in a vault underneath at

1 CEDAR CHEMICAL CORPORATION

2 the Cedar property; is that correct?

3 A. That's correct.

4 Q. To the best of your knowledge,
5 sir, were those terms contained in that vault
6 prior to 1998 when the Cedar Chemical facility
7 was acquired by Nine West?

8 A. That is correct.

9 Q. So those items were not, to your
10 knowledge, created by either Cedar or
11 Vicksburg after 1998?

12 A. They were not.

13 MR. ANGEL: No further
14 questions, Your Honor.

15 THE COURT: You may step down.
16 Do you have any further
17 witnesses?

18 MR. ANGEL: No further
19 witness.

20 (Brief recess.)

21 THE COURT: Who will call the
22 next witness?

23 MR. BARLOW: The State of
24 Mississippi.

25 THE COURT: Okay.

1 CEDAR CHEMICAL CORPORATION

2 MR. BARLOW: I would like to
3 call Scott Mills

4 DONALD SCOTT MILLS,

5 having been first duly sworn by the

6 Notary Public, was examined and

7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BARLOW:

10 Q. Mr. Mills, what is your
11 occupation?

12 A. I am an environmental engineer
13 working for the Mississippi Department of
14 Environmental Quality.

15 Q. Can you give us your educational
16 background?

17 A. Chemical engineer degree from
18 Mississippi State University.

19 Q. How long have you been working
20 for MDEQ?

21 A. Approximately six and-a-half
22 years.

23 Q. Explain what your job duties are?

24 A. I'm an environmental compliance
25 and enforcement engineer. My job primarily is

1 CEDAR CHEMICAL CORPORATION

2 to make site inspections and review required
3 submittals from facilities that have
4 requirements of permits and other governmental
5 regulations that require them to submit
6 reports and perform other duties that are
7 under our review.

8 Q. Are you familiar with the
9 Vicksburg Chemical facility in Vicksburg,
10 Mississippi?

11 A. Yes.

12 Q. And how are you familiar with
13 Vicksburg Chemical?

14 A. Vicksburg is one of the
15 facilities assigned to me by assignment. I
16 mean that I am primary multi media compliance
17 officer for the State to review their reports,
18 perform site inspections and give an overview
19 of their overall compliance status.

20 Q. Are you've inspected that site in
21 the past?

22 A. Yes, I have.

23 Q. Approximately how many times and
24 for how many years?

25 A. At least two and-a-half years. I

1 CEDAR CHEMICAL CORPORATION

2 have been to the site less than a half dozen
3 times.

4 Q. When was the last time you went
5 to the site?

6 A. The 1st of October.

7 Q. Of this year?

8 A. Of this year.

9 Q. Let me direct your attention to
10 what has been filed with the Court and copies
11 have been given to counsel as Exhibit Number
12 1. I will have it marked.

13 (MDES permit marked MDEQ Exhibit
14 1 for identification, as of this date.)

15 Q. Let me ask you if you could
16 identify that document, please?

17 A. It is an MDES permit.

18 THE COURT: I'm sorry, I don't
19 have any documents.

20 MR. BARLOW: Your Honor.

21 THE COURT: Do you have extra
22 copies?

23 MR. BARLOW: No, they were filed
24 with the Court and counsel.

25 MR. ETZKORN: I may have a

1 CEDAR CHEMICAL CORPORATION

2 copy.

3 MR. BARLOW: If I could stand by
4 the witness, it might be easier.

5 Thank you, Your Honor.

6 THE COURT: Okay.

7 Q. Mr. Miles, if you will look at
8 Exhibit 1.

9 A. This is MDEQ Exhibit 1?

10 MR. BARLOW: Yes.

11 THE COURT: It is marked for
12 identification.

13 Q. Could you tell us what that
14 document is?

15 A. I am looking at the State of
16 Mississippi water pollution permit control.
17 It is for Vicksburg Chemical Company, in
18 Vicksburg, Mississippi. It is a waste water
19 discharge permit.

20 Q. What is the number on the permit?

21 A. Permit number MS 0027995.

22 MR. BARLOW: I would ask that
23 this document be admitted.

24 THE COURT: Any objection, Mr.
25 Angel?

1 CEDAR CHEMICAL CORPORATION

2 MR. ANGEL: No objection.

3 THE COURT: Proceed.

4 (MDEQ Exhibit 1 received in
5 evidence as of this date.)

6 Q. Look at Exhibit 2, please, Mr.
7 Miles, and see if you could identify this
8 exhibit.

9 A. State of Mississippi air
10 pollution control, Title V, permit to operate
11 for the Vicksburg Chemical site in Vicksburg,
12 Mississippi, permit 278000041.

13 Q. Is this a document that is
14 contained in the files of the Department of
15 Environmental Quality?

16 A. Yes, both permits are part of the
17 public file in Mississippi.

18 MR. KAMINETZY: Counsel was
19 provided with a copy of this that only
20 contained every other page.

21 THE COURT: Maybe you got the
22 important ones.

23 MR. KAMINETZY: No.

24 THE COURT: That is the danger
25 of two-sided copies.

1 CEDAR CHEMICAL CORPORATION

2 MR. KAMINETZY: Do you have a
3 copy?

4 MR. BARLOW: I may have, yes.
5 Hold on.

6 I would like to ask that this
7 document be admitted as Exhibit 2.

8 THE COURT: Any objection?

9 MR. ANGEL: No.

10 THE COURT: It is received.

11 (State of Mississippi air
12 pollution control, Title V permit received as
13 MDEQ Exhibit 2 in evidence, as of this date.)

14 Q. Mr. Miles, if you will, let's
15 jump to item number 5. Please explain what
16 that document is for us, please?

17 A. Item 5 is what we refer to as a
18 topo map, it is a topographical map of the
19 Vicksburg area, and identified on it is the
20 site Vicksburg Chemical and you could also
21 note it is the Mississippi River, had Stats
22 Bayou (phonetic), Hatchett Bayou, U.S. Highway
23 61 and Vicksburg POTW.

24 Q. Let me now before we deal with
25 that document specifically, turn to the next

1 CEDAR CHEMICAL CORPORATION

2 document, please, Exhibit 7 -- I'm sorry,
3 Exhibit 6.

4 Please see if you could identify
5 that document.

6 A. This is an aerial photograph of
7 that same general area.

8 Q. Is the Vicksburg Chemical
9 facility in that aerial photograph?

10 A. A portion of it is, yes.

11 Q. Did you take that aerial
12 photograph?

13 A. No.

14 Q. Is it contained in the files of
15 the State Department of Environmental Quality?

16 A. It is part of the files.

17 MR. BARLOW: I would ask that
18 Exhibits 5 and 6 be entered into the record.

19 THE COURT: Any objection?

20 MR. ANGEL: No objection, Your
21 Honor.

22 THE COURT: Received.

23 (Topographical map marked MDEQ
24 Exhibit 5 received in evidence, as of this
25 date.)

1 CEDAR CHEMICAL CORPORATION

2 (Document marked MDEQ Exhibit 6
3 received in evidence, as of this date.)

4 Q. Let's talk about those two
5 documents, let's look at the topographical
6 map, Exhibit 5.

7 Explain to us what patterns of
8 drainage, what water body you see in the area
9 that would be affected from a storm water,
10 waste water treatment pond at Vicksburg
11 Chemical if it were not operating properly?

12 A. On this map it has numbers. You
13 will see in the center of the page a large
14 number 10. To the left of it is a smaller
15 number 100. The number 100 refers to
16 elevations and each of the more solid orangish
17 color, even though mine is in black and white,
18 they refer to elevations, how high or low
19 certain areas of the ground are, that's
20 topography.

21 There are tracks indicated in
22 there and the waterways include Stat
23 (phonetic) Bayou which is identified in the
24 box in the center of the page and on the
25 bottom of the page Hatchett Bayou starts from

1 CEDAR CHEMICAL CORPORATION

2 the right, about two-thirds of the way down.

3 Stat and Hatchett are two
4 waterways that come together and join
5 virtually at the Vicksburg Chemical location
6 and create Hennessy (phonetic) Bayou which is
7 designated in the box, the lower left-hand
8 portion.

9 Q. There is a pond indicated just, I
10 would say, southeast of the Vicksburg Chemical
11 site on the topographical map?

12 A. That's correct.

13 Q. And it does not appear to be on
14 the aerial photograph which is Exhibit 7.

15 Could you explain the difference
16 between the two?

17 A. On the topographical map the pond
18 or lagoon, as it is is one single unit.
19 Whereas on an aerial photograph you could
20 notice there is a separation, there is
21 actually three.

22 Q. Why are they different? Why is
23 the topographical map different from what you
24 could see on the aerial photograph?

25 A. There is a difference between the

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2 two because the topographical map is probably
3 the most recent date which is in the mid-1960s
4 whereas the aerial photograph is actually
5 dated February 3, 2001.

6 Why they are different is because
7 an effort was made by Vicksburg Chemical to
8 modify that single lagoon into a more common
9 use of smaller individual lagoons that have
10 the capability to come back and forth to
11 modify itself to whatever use they may be
12 designated.

13 Q. As you look at the aerial
14 photograph you could see there are five ponds
15 actually in the aerial photograph. Can you
16 explain what they are?

17 A. That's correct. The
18 topographical map has indicated on it a
19 Vicksburg POTW. That is the Publicly Owned
20 Treatment Works on the sanitary sewer system
21 for the City of Vicksburg.

22 On the aerial photograph you
23 could see two large dark lagoons and then
24 behind it a series of circular -- they are
25 actually clarifiers and such.

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2 MR. BARLOW: If I could borrow
3 from the court reporter the exhibit that I
4 have given you in color, Exhibit Number 6.

5 Can you differentiate between the
6 City's sewage treatment lagoons and the
7 Vicksburg Chemical lagoons by color?

8 A. Yes, certainly you can. There
9 is a dark deep blue color for the City of
10 Vicksburg POTW lagoons whereas the Vicksburg
11 Chemical three lagoons have a brighter
12 greenish color.

13 Q. Why are they green?

14 A. They are green because their
15 waste water contains high nitrogen levels
16 which are food for algae, the green color is
17 actually associated with what is associated
18 with a rapid growth within that lagoon of
19 algae.

20 Q. Thank you. Would you look at
21 Exhibit 3, please.

22 A. Yes.

23 Q. This is a series of 28
24 photographs of Vicksburg Chemical facility.

25 MR. BARLOW: I would like those

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2 to be admitted.

3 THE COURT: You just identified
4 them. Can the witness identify them?

5 MR. BARLOW: Certainly, sorry.

6 Q. Can you identify the documents
7 attached by tab 3.

8 A. 28 photographs of the Vicksburg
9 Chemical facility and waste water treatment of
10 Vicksburg Chemical.

11 Q. On what date?

12 A. 10/1/2002, each picture had a
13 date stamp. I took them and am testifying to
14 the accuracy of that date on this.

15 THE COURT: How many pictures
16 are there?

17 MR. BARLOW: There should be 28.

18 THE COURT: Any objection?

19 Mr. Angel, any objection?

20 MR. ANGEL: No. I'm sorry, I
21 didn't hear you.

22 No objection.

23 THE COURT: They are received.

24 (28 photographs marked Exhibit 3
25 received in evidence as of this date.)

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2 Q. Mr. Miles, what I would like you
3 to do and keep in mind that we are using the
4 Court's time so let's be concise.

5 Could you take us on a walk
6 through the facility with regard to storm
7 water pollution, ground water pollution, soil
8 contamination, using these photographs?

9 A. Yes. The first photograph that
10 we have and let me preempt these with a brief
11 statement that the plant itself is divided
12 into what is referred to as a north plant and
13 a south plant, even though they are not polar
14 north or polar south from each other. The
15 north plant is the nitric acid plant area,
16 primarily, although they do a lot of other
17 things there, the south plant is the potassium
18 nitrate plant even though they do other things
19 there also.

20 The first photograph we have here
21 is a large storage building for the products
22 which they make and the significance of this
23 is that on the left side of that building in
24 the photograph you could note how water
25 runs -- actually, toward the bottom of the

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2 page, and how it is routed to the bright
3 yellow guard railing.

4 That bright yellow guard railing
5 if you notice it is on an legal an elevated
6 six-inch path, that is actually a sump pump
7 that collected all of the storm water from
8 that area. When it rains all the water runs
9 to there, the pumps kick on and they pull it
10 down to the waste water treatment plant which
11 is located toward the south plant area, in
12 this area between the railroad tracks. There
13 is a high nitric acid content that has an
14 algae bloom. Thus there is the greenish tint
15 in the water.

16 Q. Where would that water flow
17 because of the storm water routing at that
18 facility? This the same type of water that
19 would end up in the waste water treatment
20 ponds?

21 A. This is the same water that would
22 end up in the waste water treatment ponds
23 assuming that the pump kicks in and pumps it
24 down there.

25 Q. Turning to what will be 3-B,

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2 please. Continue your walk through.

3 A. This is a closeup photograph of
4 the pump system that is actually within that
5 small six-inch concrete wall with the bright
6 yellow rails around it. What you will see --
7 actually over inside the sump area you could
8 see algae growth and a nominal amount of water
9 within it.

10 Q. Now, storm water pumped from this
11 sump would go there?

12 A. The storm water is pumped from
13 this sump pump to the pond. If the pump does
14 not operate it would exceed the small amount
15 of the volume that is here and would end up in
16 storm water that is not routed to treatment.

17 Q. Let's talk for just a second
18 about the difference there.

19 If storm water is collected and
20 treated, that means it is going to the pond
21 for treatment; is that correct?

22 A. That's correct.

23 Q. What happens if the storm water
24 never makes it to the pond?

25 A. If the storm water is not

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2 collected or routed to treatment it becomes
3 like any other rainfall water, it is directed
4 to the lowest elevation through different
5 conveyances to the waterway. In this
6 specific case it goes directly to Stat's Bayou
7 completely untreated, and that means it will
8 carry the contaminants from the area directly
9 to the bayou.

10 Q. What is required to direct or
11 pump this contaminated storm treatment water
12 to the treatment pond?

13 A. The plumbing and electricity and
14 maintenance on these pumps is required.

15 Q. Thank you.

16 Turn to picture 3C, please.

17 A. This photograph is just a look
18 into the north plant. Its significance is
19 that it is not all plat pavement. There is
20 no secondary containment within the process
21 areas. The pipe works an all of the
22 processes within that plant. All of the
23 water which is either part of the process or
24 from rainwater comes into contact with the
25 process equipment and becomes contaminated

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2 thus requiring the treatment.

3 Q. Explain what you mean by
4 secondary containment.

5 A. A berm or a wall is placed around
6 an object, in case it was to puncture or fail,
7 the contents would be contained within the
8 secondary containment wall.

9 Q. Does the secondary containment
10 exist here?

11 A. No.

12 Q. Picture 3D, please.

13 A. This is a photograph of the north
14 plant sump pump. You could see a green grate
15 in the center of the page and two barrels and
16 a brown grate on the right-hand side in
17 approximately the center of the page. The
18 storm water that runs off from the process
19 area collects in these grates and is routed
20 to, in the center of the page, the left most
21 greenish basin. That is a small sump
22 there. From there it is pumped directly into
23 the white constructed pools. It usually goes
24 through each of the pools where a pH
25 adjustment is made where necessary, then

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2 gravity has it flow into the three open pipes
3 in the center of the page, and then it goes up
4 and to the left where it drops into yet
5 another sump and from that sump it is
6 mechanically pumped to the pond.

7 Q. From an environmental engineer's
8 perspective, why does one conduct the pH
9 adjustment?

10 A. If water is expected to be either
11 acid or caustic the pH could go either very
12 low or very high. You need to normalize that
13 pH so it does not have an impact on the
14 receiving strength.

15 Q. Now, this is still collected
16 storm water that we are looking at in this
17 picture?

18 A. This is collected storm water,
19 but it may include some processed water
20 discharges.

21 Q. Again, when this water is pumped
22 somewhere, where does it go?

23 A. Pumped to the treatment ponds,
24 and if it were not pumped to the treatment
25 ponds then would overflow in two positions

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2 where the white pipes dump into the black area
3 at the center top portion of the page, and it
4 would overflow into the first green grate on
5 the left-hand side of the page surrounded by
6 the concrete pad. That would -- it would
7 occasionally overflow and work its way toward
8 the top of the page which would be further
9 into the picture, and would enter storm water
10 drainage that is untreated and goes directly
11 to Stats Bayou without any type of treatment
12 to it.

13 Q. To the next page, please, 3E.

14 A. This is the base of the pump at
15 the last sump prior to being pumped to the
16 treatment ponds.

17 Q. Tell us anything else you notice
18 about this picture.

19 A. If you notice that pump is
20 dripping water in the base. The water is
21 dripping onto a quarter inch steel. If you
22 will notice the quarter inch steel has been
23 eaten through by corrosion. We refer to this
24 as the poster child for corrosion.

25 Q. Is there any other reason you

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2 know of why the hole would exist in a quarter
3 inch steel plate?

4 A. It would exist there purely
5 because the water is such a pH or the
6 contaminants in this.

7 Q. The dripping would be a sampling
8 of the water that goes through waste water
9 treatment ponds?

10 A. Yes.

11 Q. And that would flow into the
12 bayou if not put through the water waste
13 treatment plants?

14 A. That's right.

15 Q. Go to the next page, please, 3F?

16 A. This is a photograph of the north
17 plant some distance away from where the
18 previous exhibit page was taken. This shows
19 the storm water conveyance of untreated waste
20 water. If the pumps and the sump were not
21 properly operated or maintained that is the
22 direction that water would come to and it
23 would drop into this basin and pipe on the
24 lower left-hand portion of the page, it would
25 discharge directly to the south bayou.

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2 Q. Why would that pipe be there,
3 what is its purpose?

4 A. There is a difference between
5 what is contaminated storm water and
6 uncontaminated storm water. If you will
7 imagine a crude bowl, the processing area is
8 placed within the crude bowl and everything
9 that falls from the sky and has contact with
10 the processed area becomes contaminated. It
11 is collected into that crude bowl and pumped
12 to treatment. The perimeter of that bowl and
13 outside of that area is uncontaminated, it is
14 God's water from the sky and drops onto the
15 ground and is directed away from treatment.
16 So the treatment is not innundated with a lot
17 of water. It only treats what needs to be
18 treated.

19 Q. Go to the next page, 3G.

20 A. It just shows that works into the
21 south plant. The south plant area has a lot
22 of pipe that carries the waste water from the
23 north plant via the pumps into the south plant
24 and on the left-hand portion of the page you
25 could see where the pipes go out to the left,

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2 that actually goes on to the pond, the
3 treatment ponds. It also shows there is an
4 elevation difference between where the south
5 plant is located and the railroad tracks.

6 Q. Let's go to the next page,
7 please, 3H.

8 A. This photograph again shows the
9 pipe work and it shows how the pipes are
10 directed toward the pond which are in the
11 center left-hand portion of the page and
12 shows, again, the fact that the south plant is
13 higher than the pond area, therefore it would
14 flow toward that direction.

15 Q. So what you are saying is that
16 untreated storm water runs, and if it
17 overflows, it would run into the pond?

18 A. If there is an overflow, it would
19 run toward the pond, but it is not correct to
20 state that it will run into the ponds.

21 Q. What would happen to it?

22 A. The storm water overflow would
23 run into the uncontaminated untreated
24 discharge points which are directed directly
25 into Stats Bayou which is upstream from where

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2 the lagoons are located along that conveyance,
3 and they don't flow directly into the pond.

4 If you just allow gravity to drive the water,
5 it would not flow directly into the ponds.

6 Q. So, again, no treatment?

7 A. It would gain absolutely no
8 treatment.

9 Q. Go to the next page, please, 3I?

10 A. This is a picture of the south
11 plant. It shows how in some chemical plants
12 it is like staring into a bowl of spaghetti.
13 There are so many lines going here. But it
14 does note that certain processed discharges do
15 go directly into, as you could see, the one
16 pipe at the base of the picture goes into the
17 ground, that is actually into treatment and
18 directly routed to the ponds.

19 Q. And that is processed waste
20 water?

21 A. Yes, which is different than
22 storm water.

23 Q. And that pipe that goes into the
24 ground leads to where?

25 A. To the treatment ponds.

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2 Q. Go to the next page please, 3J.

3 A. This again shows how the pipe
4 works. It gives you an idea of conditions.
5 You could notice corrosion especially around
6 the flanges, the large white pipe and how the
7 pipe works and do lead down to the ponds.

8 Q. Next page, please, 3K.

9 A. This photograph is taken from
10 about the middle of the south plant and it
11 shows the road which goes down to the waste
12 water treatment pond. You could notice there
13 is a gradient difference. It is downhill to
14 the pond and one might think water would flow
15 down the road down to the ponds, but it is not
16 set up to where that water would actually go
17 though the ponds.

18 Q. Why are the yellow spots on the
19 ground?

20 A. As you notice there seems to be
21 yellow spots, even though the photograph
22 doesn't do it justice. There should be a
23 number of yellow spots. You could notice a
24 significant one just above the 2002 year stamp
25 on the photograph and then if you go northwest

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2 from there, there is another spot and then
3 what seems to be a larger spot northwest from
4 there in the center of the page to the left
5 side of those yellow spots were identified to
6 me as contamination on the property,
7 specifically dinasette (phonetic), which is
8 one of the former products and identifies the
9 former hazardous product.

10 Q. What is that?

11 A. A herbicide made by Vicksburg in
12 the place. The EPA has identified it as a
13 listed hazardous waste.

14 Q. Do you have any knowledge about
15 the toxicities of dinasette?

16 A. It is toxic. At certain levels
17 it could create incredible harmful to the
18 human body and to the environment.

19 Q. Would storm water running over
20 these yellow spots pick up dinasette?

21 A. The answer is yes.

22 Q. Why hadn't these yellow spots,
23 dinasette already removed by the EPA, ADQ or
24 some other company?

25 A. A small portion of the corrective

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2 action, part of the EPA corrective action at
3 the facility, they made a determination by
4 scraping even just an inch down from there
5 they may have exposed something worse than
6 that is actually there on the surface. So
7 right now the do nothing option is the best
8 option until they further investigate what
9 action should be taken for the entire site.

10 Q. Go on to the next page please,
11 3L.

12 A. That is close up showing the
13 yellow contamination. This is taken as a
14 close up of the previous picture, not a
15 different area.

16 Q. Go on to the next page, please,
17 3M.

18 A. This photograph, again, shows a
19 section of the south plant. You could see
20 that it's a green fence, that's what it looks
21 like. That is actually a chain link fence
22 completely overgrown and it runs the length of
23 the rail tracks.

24 Q. Describe where on the picture you
25 are talking about.

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2 A. The center of the page on the
3 left-hand portion just above the two yellow
4 guard posts.

5 Q. Go on to the next page, please.

6 A. What we have here is just a
7 photograph of two railroad tracks. We could
8 go to the exhibit that is the topo map.

9 Q. Exhibit 5?

10 A. Exhibit 5.

11 On this exhibit, the lower
12 left-hand portion railroad tracks run through
13 the plant area that is part of a Kansas City
14 southern line and has a rail spur that goes
15 out to the plants and provides rail access for
16 that plant, back to the photograph exhibit,
17 this shows the rail spur coming up, off the
18 original Kansas City southern line toward the
19 plant.

20 Q. So this rail spur leads directly
21 to the plant?

22 A. That's correct.

23 Q. Is there a fence around or along
24 this rail spur?

25 A. No.

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2 Q. Does that create access problems
3 for the plants?

4 A. In The State of Mississippi it is
5 a common recreational activity to walk the
6 railroad tracks. They are seldom used.
7 They are kept clear and wide open to make it a
8 good walking surface. If someone were to be
9 walking from any of the highways and roads in
10 Vicksburg that connect to this, they could
11 walk along that rail spur directly into the
12 south plant.

13 The south plant has been
14 identified as being some of the areas with the
15 worst contamination on the ground exposed.

16 Q. Next picture please, 30?

17 A. The next page, I turned 180
18 degrees and took a photograph back towards the
19 south plant. It just shows there are no
20 signs, no restrictions, no gates, no
21 fencing. The rail line just feeds directly
22 into the south plant.

23 Q. Next page, please, 3P.

24 A. I walked further to the south
25 plant and took another picture. The picture

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2 here shows this is a gradient from the upper
3 left-hand portion where the south plant is
4 down to the right where the rail tracks go.
5 There are a series of pumps on the right-hand
6 side of the photograph, and then you see a
7 tree line and that tree line is actually where
8 the overgrown tree line fence which are what
9 separates the property from Vicksburg Chemical
10 from the original Kansas City southern line.
11 And immediately on the other side of the
12 Kansas City southern line is the south bayou
13 joined with Hatchett Bayou which becomes
14 Hennessey Bayou.

15 Q. In the center of the page on the
16 vertical center on the right-hand side there
17 appears to be two white dots.

18 Are those the pumps you are
19 talking about?

20 A. Yes, yes, they are.

21 Q. What is that?

22 A. That area is the south sump.

23 The south sump is where all storm water from
24 the south plant and railroad tracks are
25 directed to. Everything that becomes

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2 contaminated through contact in the south
3 plant, in that area is including storm water
4 which goes across the surface and may pick up
5 some sediment and it may definitely pick up
6 some of the contamination noted on the site
7 that goes into a collection drain and then it
8 drains by gravity into this south sump where
9 these two pumps are located.

10 Q. Do you see another yellow patch
11 of soil in this picture?

12 A. On the bottom of the page, about
13 an inch from the bottom, a third of the
14 distance from the left is a yellow green area
15 on the railroad tracks. That was identified
16 to me as further contamination from dinasette
17 and possibly other chemicals.

18 Q. Next page, 3Q?

19 A. This photograph is the ground
20 just outside of a water house at the south
21 plant. This is one of the points, one of the
22 last points south of the buildings and process
23 area. From this point behind the point from
24 where the picture was taken is mostly railroad
25 tracks, it shows a significant amount of

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2 yellow contamination. It is not a poor
3 picture, it is poor condition of the ground.

4 Q. If the rainwater hits those
5 yellow patches where does the rainwater goes?

6 A. It becomes contaminated and flows
7 downhill into the south pump, the south sump,
8 excuse me.

9 Q. Next page, 3R.

10 A. This is the south sump. Inside
11 the picture just on the other side of the two
12 yellow capped pumps is the south sump, and has
13 a capacity of approximately 31,000 gallons,
14 that is if it was completely full and emptied
15 out -- it is never completely empty, I'm
16 sorry. If it was empty and cleaned out it
17 would have that 31,000 gallon capacity. It
18 is never empty. It is never drained out on a
19 daily basis. That is just unrealistic.

20 Q. Do you have any information about
21 the amount of rainfall at the site that this
22 sump would be able to hold if pumps were not
23 operating before it overflowed?

24 A. If the sump open is half full it
25 gives a 15,000 gallon surge capacity, a surge

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2 of rainwater would be directed to that.
3 Anything under 17,000 gallons would be
4 contained within that. However the plant
5 area is approximately 20 acres, a rainfall
6 event that would occur in that area up to one
7 inch would create, I believe we calculated
8 approximately 600,000 gallons.

9 Q. One inch rainfall is a pretty
10 good rainfall for Mississippi?

11 A. It is. It is pretty common.

12 Q. What is the average rainfall for
13 the City of Vicksburg area, if you know?

14 A. Approximately a 10th of an inch.

15 Q. Per day?

16 A. Per day?

17 Q. That is the question.

18 A. For a one full day, approximately
19 a 10th of an inch. Actually, it is over a
20 10th of an inch.

21 Q. What are you basing that
22 conclusion on?

23 A. A conversation and an exchange of
24 facts with Dr. Charles Wax, who is with the
25 Mississippi State University, Department of

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2 Geosciences. He is the state climatologist.
3 He collects rainfall throughout the state and
4 has done so and maintains a database that
5 holds more than 30 years of information. The
6 information he gave me showed that in the
7 month of October, an average daily rainfall is
8 over a 10th of an inch.

9 MR. ANGEL: Your Honor, please,
10 I have tried not to make objections even
11 though many of the statements of the witnesses
12 are clearly hearsay; so I would ask counsel to
13 try to avoid such areas. But I am not trying
14 to impact or to state that there are no
15 environmental problems at this facility. It
16 is just that I don't think the record should
17 be burdened with hearsay statements. I am
18 not trying to be overly technical.

19 THE COURT: Okay.

20 MR. BARLOW: What we are trying
21 to say, it doesn't take much rain to cause
22 these sumps to overflow.

23 THE COURT: What the witness is
24 testifying to is what the climatologist told
25 him. It sounds like hearsay since you are

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2 offering it as to truth.

3 MR. BARLOW: Is there an
4 objection or not?

5 THE COURT: He made a
6 statement. Continue.

7 Q. Let me ask you of your personal
8 knowledge. How long have you lived in
9 Mississippi?

10 A. For 25 more or more of my 35
11 years.

12 Q. Is it unreasonable to expect the
13 area around Vicksburg to, let's say, get a
14 half inch rainfall or a 10th of an inch
15 rainfall on any given day?

16 A. In any given day in 24 hours a
17 half inch is not uncommon.

18 Q. If you had a 10th of an inch
19 rainfall on the 20 acres, have you calculated
20 approximately how much storm water that would
21 create?

22 MR. ANGEL: Your Honor, we could
23 stipulate they got a lot of rain in
24 Mississippi and there is a lot of storm --

25 THE COURT: The question is what

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2 point is there so much water that it runs off
3 in the bayou, how much does it have to rain if
4 the pumps are not running before it runs into
5 the bayou.

6 THE WITNESS: Less than a 10th of
7 an inch.

8 MR. BARLOW: That is all I was
9 trying to elicit.

10 Q. Let's go on to the next page,
11 3S.

12 A. It's the south grade from the
13 south plant down to the south sump area.

14 Q. Go to the next picture, please.

15 A. This is an area of the railroad
16 tracks between the sump and waste water
17 treatment plant near the south plant, again,
18 showing area of bright yellow contamination of
19 the surface.

20 Q. The next, please?

21 A. This is a close up of the
22 previous exhibit showing it is so bright
23 yellow it is orange.

24 Q. Next page, 3P.

25 A. This is a photograph of the waste

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2 water treatment pond system. It shows how
3 the pipes are conveying water between ponds.

4 Q. What is the small red -- it looks
5 like a hose toward the top of the picture on
6 left-hand side laying on top of the left?

7 A. This is a small red hose that is
8 connected to a diaphragm pipe which is that
9 black group of pipes just at the top of the
10 hose. The facility has installed a system
11 which will pump water from behind the liner
12 over into the pond, that is because the liners
13 have become compromised. They don't hold the
14 water. It looks -- and to keep from having
15 more problems they are actually pumping the
16 water from behind the liner back into the
17 liner. That is something that requires an
18 operation on a constant basis.

19 Q. Skip to 3Z, please.

20 A. 3Z?

21 Q. Can you show us that, please?

22 A. Yes. This photograph is of six
23 tanks. These are the carbon absorption units
24 that the waste water is routed through as a
25 part of the necessary treatment prior to

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2 discharge.

3 Q. Before it gets to pond or after?

4 A. This is after it gets to the
5 pond. The process goes to the pond for
6 equalization and then it is forced, pumped
7 through the carbon absorption units.

8 Q. What does the carbon absorption
9 unit do?

10 A. You send water through carbon
11 absorption to help remove specific pollutants
12 through the water. It is an inexpensive
13 proven efficient method of treating waste
14 water, it's a sure fast treatment where
15 pollutants are removed from the water onto the
16 surface of the carbon which is inside of these
17 units, known as a packed bed. As water flows
18 over the surface the contaminants are trapped
19 in the carbon and clean water goes in and
20 after some amount of time the carbon will
21 become, the phrase is "spent". Once the
22 carbon is spent it needs to be disposed of or
23 it can be cleaned again either by back washing
24 or forcing steam through it to clean the
25 surfaces off.

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2 Q. Go to the next page, please,

3 3AA.

4 A. This is a photograph of the
5 secondary containment underneath the carbon
6 absorption units. The black material that you
7 see, that is the majority of the base of the
8 secondary containment is actually spent carbon
9 from the units that have been left there.

10 There is actually carbon contamination inside
11 and outside containment such that it is on the
12 other side of the property line that has been
13 left there on August 21, 2001.

14 I personally performed an
15 inspection and directed personnel to clean all
16 of this up. It should not be left there and
17 should be disposed of properly.

18 When I returned to the site after
19 notification of the motion of abandonment this
20 summer it was in the same condition. When
21 inquired why it was in the same condition, the
22 response was we made a request for fundings,
23 but it has not been given to us.

24 Q. This picture is dated when?

25 A. 10/1/2002. The material is

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2 still there to date.

3 Q. Go to the next page, please,

4 3EB.

5 The large black pipe is for the
6 actual discharge. It pumps from the ponds,
7 pumps it through this large black pipe and
8 there is a pH meter just above this where
9 there is a breakup from the pipe and the blue
10 diaphragm that is actually an air diaphragm
11 there. The pH is checked at this point as
12 last part of the treatment. If the pH is too
13 high or too low, the pump shuts off that valve
14 and it is rerouted back to treatment and goes
15 through the system again. If this is not
16 operated the discharge will continue to go
17 forward without any pH adjustment. It could
18 exceed the permit limits.

19 Q. Go to tab 4, please, what will be
20 Exhibit 4. Identify that document for us.

21 A. This is an order from the
22 Mississippi Commission on Environmental
23 Quality to Vicksburg Chemical Company. The
24 contents of this order was to remind the
25 facility that there are closure and post

1 CEDAR CHEMICAL CORPORATION
2 closure requirements associated with their
3 permits and requiring them to receive
4 permission from the Mississippi Commission on
5 Environmental Quality prior to abandoning the
6 site at the closing or the postclosing
7 facility.

8 Q. When is it dated?

9 A. September 26, 2002.

10 MR. BARLOW: I would ask, Your
11 Honor, that this document be admitted into
12 evidence.

13 THE COURT: Any objection?

14 MR. ANGEL: Excuse me?

15 THE COURT: Any objection.

16 MR. ANGEL: No, Your Honor.

17 THE COURT: Proceed.

18 (Letter from the City of
19 Vicksburg dated August 26, 2002, to Vicksburg
20 Chemical marked MDEQ Exhibit 7 received in
21 evidence, as of this date.)

22 Q. Go to tab 7, please.

23 A. This is a letter from the City of
24 Vicksburg dated August 26, 2002, to Vicksburg
25 Chemical, in Vicksburg, Mississippi.

1 CEDAR CHEMICAL CORPORATION

2 Q. Is this a document that is
3 contained in the files of the Department of
4 Environmental Quality?

5 A. Yes, it is. It is a public
6 record.

7 Q. Go on to the next document,
8 please, Exhibit 8.

9 A. This is a document that came with
10 the letter. It outlines and identifies a
11 PPNI column. It gives the acreage of each
12 plat. The true value of the unimproved
13 property in a dollar amount column and a total
14 at the base of \$2.6 million assumed dollars.

15 Q. What is your understanding of
16 what these documents are about or why they
17 were in the MDEQ public record file?

18 A. These documents were present by
19 the City of Vicksburg in a discussion of their
20 eagerness to purchase over 500 acres owned by
21 Vicksburg Chemical Company to install a
22 municipal golf course. They demonstrated
23 their approximate values they have from their
24 municipal record from that and asserted that
25 with a monetary value it was willing to spend

1 CEDAR CHEMICAL CORPORATION

2 for such property.

3 MR. BARLOW: I would like to
4 offer these two exhibits.

5 THE COURT: Any objection?

6 MR. ANGEL: Hearsay.

7 They are contained in the public
8 record files of the State agency.

9 THE COURT: I guess they are
10 being offered to prove this is an offer to buy
11 the property.

12 MR. ANGEL: Your Honor, the best
13 way, here is a dollar, we will take the
14 property. They could have it.

15 THE COURT: I will take it. I
16 don't think it is particularly relevant.
17 Objection is overruled.

18 (Document marked MDEQ Exhibit 8
19 received in evidence as of this date.)

20 Q. I will ask you to look at the
21 document that has been admitted as Debtor's
22 Exhibits 1 through 3. I believe only 1 and 2
23 are relevant to the chemical site.

24 I would like you to tell us if
25 you see anything about the mothball procedure

1 CEDAR CHEMICAL CORPORATION

2 at the Vicksburg Chemical sites that caused
3 you concern as a regulation of the facility?

4 A. I believe it is identified as
5 Debtor's Exhibit 2, which is the spread sheet
6 which shows Vicksburg Chemical status of
7 cleanup and mothball activities as of October
8 1, 2002. It refers to the north plant, south
9 plant areas.

10 As to what raises concerns to me,
11 when it refers to the plants, I noticed the
12 line, north plant, chlorine has been
13 mothballed, emptied and air purged.

14 Then you turn to page 2 and it
15 says "product to be disposed." It does not
16 refer to any chlorine. On visits to the
17 site, at the last visit there was
18 approximately 20 tons of chlorine there.
19 There was chlorine that was not accounted for
20 on here. Chlorine gas will kill you.

21 Q. What was the date of that last
22 visit you made?

23 A. 10/1/2002.

24 Q. Please continue.

25 A. The other items of concern on

1 CEDAR CHEMICAL CORPORATION
2 here were the north plant had identified on
3 the fourth line of page 1 that the N 204 plant
4 had been mothballed and cleaned. However, we
5 have knowledge of approximately 20,000
6 thousand pounds of N 204 still at the plant,
7 and that was not specifically identified on
8 that.

9 On page 2, the north plant and
10 south plant have, and you could look under a
11 material name, at the middle of the page and
12 down there, KNO3, 70 percent and KNO3, 65
13 percent. That is 70 percent pure nitric acid
14 in 75,000 tons and 65 percent at 150 tons.

15 We have been informed by the
16 personnel that there is no buyer to date and
17 to remove that material on the schedule given
18 on the action date is highly unlikely. 805
19 tons of nitric acid is entirely too much acid
20 to have in one place for no use whatsoever.
21 It is earmarked to be disposed, but it would
22 take a huge effort to dispose of it at one
23 event, much less between now and the end of
24 this month.

25 Other items that raised concern

1 CEDAR CHEMICAL CORPORATION

2 were on the third page. There is a list of
3 items that are referred to as pond treatment
4 for disposal, no action date, plant use.
5 Specifically there is a line of sulfuric acid
6 for plants used in pond and treatment. The
7 quantity is 39 tons. That is an insane
8 amount of sulfuric acid to put in any pond.
9 Sulfuric acid is used to adjust the pH to
10 lower when it is too high. If it is too high,
11 39 tons, it would take a decade or more to use
12 any of that.

13 Q. What about the 50 percent caustic
14 that is listed there?

15 A. The 50 percent caustic has 17
16 tons listed. The same applies to it. There
17 is a large amount of lime and KOH, 20 tons and
18 30 tons, respectively.

19 Q. Let me ask you, are you familiar
20 with NPDES permit?

21 A. Yes, I am.

22 Q. In your opinion, could you
23 dispose of these items as listed by pond
24 treatment in compliance with that permit?

25 A. No, you could not. The permit

1 CEDAR CHEMICAL CORPORATION

2 is written specifically for the operation of
3 the plant. To try to use it instead of a
4 means of treatment, as a means of disposal is
5 in violation of that permit and State law.

6 Q. Let me ask you one final thing.
7 In your professional opinion what would happen
8 to Stats Bayou, Hennessy Bayou, if
9 contaminated waste water runs off from this
10 site and gets into this water body?

11 A. Untreated water that would leave
12 the site with the pollutant levels that we
13 have been made familiar with, having knowledge
14 that it would be in that water would
15 essentially kill any micro and macro
16 invertebrates in the receiving stream and
17 downstream from there on. The micro and
18 macro invertebrates would be killed instantly
19 and that would be the food for fish. So they
20 would starve. So it would create a bit of an
21 environmental catastrophe for those waterways,
22 not to mention the possibility for exposure to
23 humans.

24 Q. Where does Hennessy Bayou empty?

25 A. It discharges directly to the

1 CEDAR CHEMICAL CORPORATION

2 Mississippi River.

3 Q. Do you know whether that portion
4 of the Mississippi River is on the Mississippi
5 clean water 303 D list of impaired water
6 bodies?

7 A. Yes, it is.

8 Q. In your opinion would storm water
9 run off further impair that water body?

10 A. Greatly, it would greatly further
11 impair it.

12 MR. BARLOW: No further
13 questions.

14 THE COURT: Cross-examination.

15 CROSS-EXAMINATION

16 BY MR. ANGEL:

17 Q. I believe you said you are with
18 the State of Mississippi Environmental
19 Protection Agency. I am sure I didn't use
20 the correct name of the agency, but is that
21 correct?

22 A. The department of Environmental
23 Quality, yes, that is correct.

24 Q. And you are in the compliance and
25 enforcement division of that agency?

1 CEDAR CHEMICAL CORPORATION

2 A. Yes, that is correct.

3 Q. How long have you been with that
4 department and the agency?

5 A. Since its existence in 1999.

6 Q. 1999?

7 A. Since its existence in 1999.

8 Q. As part of your duties, you are
9 the person in that department that is in
10 charge of compliance and enforcement with
11 regard to the Vicksburg Chemical facility; is
12 that correct?

13 A. Yes, that is correct.

14 Q. Do you know what a cease and
15 desist order is?

16 A. Yes.

17 Q. Would you tell the Court what
18 your knowledge of a cease and desist order is?

19 A. Bearing in mind that I am an
20 engineer, not a lawyer, a cease and desist
21 order is an order by a Court or a commission,
22 in our case, that would instruct a facility to
23 stop.

24 Q. Some activity?

25 A. Stop anything, whatever you are

1 CEDAR CHEMICAL CORPORATION

2 requiring them to cease and desist.

3 Q. That is pretty good even for a
4 lawyer.

5 Did you, to your knowledge, did
6 you ever issue a cease or desist order or your
7 department with regard to the Vicksburg
8 facility since --

9 A. I did not, no.

10 Q. Your department?

11 A. I don't have intimate knowledge
12 of every division, no, or subsection of my
13 department. But as far as Vicksburg Chemical
14 is concerned, the Order which we identified as
15 an exhibit is the most recent now. If you
16 want to go back in time --

17 Q. But you don't know of anything
18 back in time?

19 A. That --

20 Q. One that you issued or your
21 department issued?

22 A. I didn't issue it but my
23 department did, yes.

24 Q. Do you know what year?

25 A. I want to say '92.

1 CEDAR CHEMICAL CORPORATION

2 Q. Since 1992 do you know of
3 anything --

4 A. Not off the top of my head, no,
5 without the public record in front of me. It
6 would be there.

7 Q. That is fine.

8 I think you indicated some value
9 with regard to the property to be abandoned of
10 \$2 million in your testimony?

11 A. That's correct.

12 Q. Assuming that there was no
13 ethical or legal problem to the Debtors
14 deeding over these properties to yourself for
15 a dollar, would you take these properties?

16 A. I certainly can't speak on that.

17 Q. Excuse me?

18 A. I certainly can't speak on this
19 matter.

20 Q. This is a hypothetical.
21 Forgetting whether you have a legal
22 prohibition against your personally accepting
23 this property.

24 A. Hypothetically, would I want to
25 purchase the 500 acres?

1 CEDAR CHEMICAL CORPORATION

2 Q. Yes.

3 A. For \$1?

4 Q. Yes.

5 A. No.

6 Q. Why not?

7 A. I have been to the Vicksburg
8 Chemical facility and am familiar with the
9 level of contamination there and the ground
10 water contamination there. By purchasing
11 that I become a potentially responsible party.

12 Q. In your experience with the
13 Department of Environmental --

14 A. Quality.

15 Q. -- Agency of the State of
16 Mississippi, have you ever had a situation
17 where there was a property in need of either,
18 A, remediation or management where there was
19 no responsible party with any money in sight
20 to deal with that property?

21 A. No.

22 Q. So this is the first time that
23 this issue has ever come up --

24 A. Yes.

25 Q. -- to your knowledge?

1 CEDAR CHEMICAL CORPORATION

2 A. Yes.

3 Q. To your knowledge, is there any
4 machinery within the agency or the State of
5 Mississippi to deal with the property that
6 does not have anyone in sight that has money
7 to either maintain or remediate a property?

8 A. The agency does have the finances
9 to handle things like that. I have not
10 worked with those people and I am only mildly
11 familiar with the regulations.

12 MR. ANGEL: I have no further
13 questions.

14 THE COURT: Okay.

15 MR. ANGEL: I'm sorry, just one
16 last question.

17 THE COURT: You have to say it
18 faster.

19 BY MR. ANGEL:

20 Q. Do you, to your knowledge, have
21 any knowledge of any money that is available
22 on behalf of the Debtor, Vicksburg Chemical,
23 to maintain and/or remediate its property
24 after October the 14th, of 2001, to your
25 knowledge?

1 CEDAR CHEMICAL CORPORATION

2 A. It is part of my job to do the
3 worst case scenario. If it is the will of
4 this Court to abandon this site, I have to
5 have procedures in place to go in to
6 management and reduce that level of risk as
7 much as possible.

8 If a previously identified trust
9 fund of almost \$600,000 was combined with all
10 of the money in the State of Mississippi's
11 emergency management fund were combined, I
12 could only operate the site for seven
13 months. But then I wouldn't have any money
14 for any other location in Mississippi.

15 MR. ANGEL: That is fine.

16 Q. Do you know of any other moneys
17 available, to your knowledge?

18 A. I will say no.

19 MR. ANGEL: Thank you. No
20 further questions.

21 REDIRECT EXAMINATION

22 BY MR. BARLOW:

23 Q. Mr. Mills, if you were given the
24 offer to only buy the approximately 500
25 uncontaminated acres for a dollar, would you

1 CEDAR CHEMICAL CORPORATION

2 buy that?

3 A. Yes.

4 MR. BARLOW: Thank you. That
5 is all.

6 THE COURT: If an order of
7 abandonment was issued today, what would your
8 department do?

9 THE WITNESS: I would make a phone
10 call to our emergency response group. Our
11 emergency response group would -- I would like
12 to think that we would hire Steve Boswell, who
13 is the site environmental man as a contractor
14 to hold our hand as we continue to operate the
15 electricity and the treatment water works to
16 attempt to treat as best as we can the waste
17 water leaving the site.

18 THE COURT: How much into the
19 future would the Debtor have to continue its
20 treatment of waste water and to continue the
21 plant for environmental problems?

22 THE WITNESS: It is directly
23 proportional to the amount of treatment
24 they've given the area.

25 THE COURT: As of today?

1 CEDAR CHEMICAL CORPORATION

2 THE WITNESS: As of today.

3 THE COURT: Would it take
4 another ten years, five years?

5 THE WITNESS: I would say ten
6 years would definitely take care of it.

7 THE COURT: How much do you
8 think it is going to cost?

9 THE WITNESS: I only have heard
10 some figure. I haven't done a lot of work to
11 know how much this cost and how much that
12 cost. But I heard between 4 and \$8
13 million.

14 THE COURT: That's over the next
15 ten years?

16 THE WITNESS: I would hope sooner.

17 THE COURT: Okay. You could step
18 down.

19 Thank you.

20 (A recess was taken for the purpose
21 of lunch and another reporter will be
22 taking over for the afternoon session.)
23
24
25

1 Cedar Chemical

2 A F T E R N O O N S E S S I O N

3 PROCEEDINGS (CONT'D):

4 THE COURT: Please be seated.

5 Let's continue. Go ahead.

6 MR. ETZKORN: Your Honor, in order
7 to save the Court's time, I believe the debtor's
8 counsel has agreed to stipulate that the Cedar
9 Chemical site, the warehouses, are full of product
10 right now which is considered inventory, and that
11 many of these items would be considered a hazardous
12 substance. And that if abandon, the wastewater
13 treatment system would cause an eminent threat to
14 the public health and safety.

15 The debtor's counsel also agreed to
16 stipulate that there is significant soil
17 contamination on the site, that there is a buried
18 drum vault containing approximately two to three
19 hundred pounds of material which is a sort of
20 groundwater material. The groundwater is
21 significantly contaminated at the site. And it is
22 my understanding that there is currently a plume
23 one mile long that has migrated approximately one
24 mile south, and is essentially endangering the
25 agricultural wells in that area.

1 Cedar Chemical

2 Based on the information produced by the
3 EPA, there are significant screening levels for --
4 that the concentration of contamination of both the
5 groundwater and the soil are significant. And we
6 have a history of noncompliance with consent
7 administrative orders and notices of violation for
8 the site, showing that buried drum sites have been
9 discovered in the past. Cedar has impounded
10 hazardous substances on the site illegally, the
11 NPMS permit has been out of compliance
12 significantly, and additional buried drum sites
13 exist on the site.

14 We also have a comprehensive set of
15 photographs showing the site and the groundwater,
16 which is a significant problem, and that highly
17 contaminated storm water exists on the site. And I
18 believe debtor's counsel stipulates all that is
19 true.

20 MR. ANGEL: Your Honor, for the
21 purposes of this hearing, we will accept that
22 proffer, and we will accept the exhibits that
23 counsel wishes to have marked on behalf of the
24 State of Arkansas.

25 THE COURT: Okay.

1

Cedar Chemical

2

(Whereupon Exhibits 1 through 5 were

3

marked for identification.)

4

THE COURT: I realized when we were

5

talking in chambers that Monday is a legal holiday,

6

so it will have to be Tuesday. The courts will be

7

closed on Monday.

8

MR. ANGEL: At 10:00 a.m. on

9

Tuesday, your Honor?

10

THE COURT: Yes.

11

MR. ETZKORN: 10:00 on the 15th?

12

THE COURT: Yes.

13

When you have a chance, identify your

14

exhibits for the record?

15

MR. ETZKORN: Yes, your Honor.

16

Exhibit 1 is the inventory of the site, it gives a

17

narrative description, and the photographs are in

18

sequential order. And, if you read the inventory,

19

the list of photographs on the right-hand side are

20

the actual photographs that are in order attached

21

to the document.

22

The second document, this exhibit shows the

23

soil contamination, Exhibit 2, it shows maps and

24

gives soil sampling test results for the site. And

25

the third exhibit is -- this is the groundwater

1 Cedar Chemical
2 contamination. It shows the location of the wells
3 and the groundwater contamination problems on this
4 site. It gives both maps and groundwater testing
5 results. And the fourth Exhibit is an EPA
6 published document. It lists specific screening
7 levels for different contaminants. And you can
8 look up here for anything on the previous two
9 exhibits.

10 And exhibit number five, these are
11 agreements that were hashed out between the State
12 of Arkansas and the Cedar Chemical Corporation,
13 requiring Cedar Chemical to perform certain actions
14 as a result of noncompliance with Arkansas law.

15 THE COURT: Okay. Any objection to
16 the receipt of these documents?

17 MR. ANGEL: No, your Honor. We have
18 no objection to the documents.

19 THE COURT: One through five are
20 received in evidence.

21 (Whereupon, Exhibits 1 through 5
22 were received into evidence.)

23 THE COURT: Any other evidence?

24 MR. KENNEDY: The government would
25 call two witnesses, and I would like to make a

1 Cedar Chemical

2 proffer of the first witness, and I would like to
3 cover for ESC with the environmental protection
4 agency. The government proffers that if it called
5 Mr. Meisenheimer to the stand, Mr. Meisenheimer
6 would testify that he made a visit to the site in
7 early September of this month and took a number of
8 photographs, which I would like to have introduced
9 into evidence.

10 Why don't I do that now. I would ask to be
11 received into the record as Federal Government's
12 Exhibit 2, the photo log of Mr. Kevin Meisenheimer.
13 Copies have been previously provided in black and
14 white.

15 THE COURT: I don't know if it
16 matters, but I think we used letters for the
17 exhibits last time.

18 MR. KENNEDY: Oh, okay.

19 THE COURT: Are they pre-marked?

20 MR. KENNEDY: No, they are not, your
21 Honor.

22 THE COURT: Call it B.

23 MR. KENNEDY: So, we'll call it B.

24 (Whereupon, Exhibit B was marked for
25 identification.)

1 Cedar Chemical

2 THE COURT: All right.

3 MR. KENNEDY: So that would be
4 EPA -- let's make it easier. Exhibit B, and it's a
5 collection of 12 photographs depicting the
6 condition of the site. Mr. Meisenheimer testified
7 that he examined the site to determine what sort of
8 response actions EPA would consider toward the
9 site. And he would also testify that, based on his
10 observations at the facility as reflected in the
11 photographs, he determined that there was a threat
12 of eminent and identifiable harm to public health
13 and safety at the site.

14 First of all, there were many containers
15 stored there containing hazardous substances.
16 Secondly, if abandonment occurred, the wastewater
17 treatment system would cause eminent and readily
18 identifiable threat to the public health and safety
19 for the same reasons that we heard today from the
20 Mississippi Department of Environmental Quality.
21 And third, if abandoned, access to the site would
22 be uncontrolled; trespassers would arrive at the
23 site and there would be offense.

24 So I would ask now that debtor would
25 stipulate to the acceptance to the proffer of the

1 Cedar Chemical
2 testimony of Kevin Meisenheimer and the submission
3 of the exhibits.

4 MR. ANGEL: The debtor will so
5 stipulate, your Honor.

6 THE COURT: Exhibit B is received.
7 (Whereupon, Exhibit B was received
8 into evidence.)

9 MR. KENNEDY: Finally, your Honor,
10 the third witness -- I'm sorry that the next
11 witness the EPA would call in this matter would be
12 Mr. Gary Moore.

13 Like Mr. Meisenheimer, Gary Moore is an
14 on-scene coordinator with the EPA; the difference
15 being his region covers the Cedar plant. If called
16 to the stand, Mr. Moore would testified that just a
17 week ago he paid a visit to the Cedar Chemical site
18 and observed conditions that were on the property.

19 Mr. Moore would also testify that he took a
20 number of photographs at the Cedar site. And we
21 have right here, a black and white 17 page
22 photocopy of the document that has been previously
23 provided to the other side. And I would move for
24 the admission of this document into evidence as
25 Government's Exhibit C.

1 Cedar Chemical

2 THE COURT: EPA C?

3 MR. KENNEDY: EPA C, I'm sorry,
4 your Honor.

5 THE COURT: Any objection?

6 MR. ANGEL: The debtor has no
7 objection, your Honor.

8 THE COURT: It is received.

9 (Whereupon, Exhibit C is marked for
10 identification and received into evidence)

11 MR. KENNEDY: Mr. Moore would
12 testify to his observations at the sight, and he
13 would testify that he determined there were a
14 number of causes for concern in examining the site.
15 First of all, in terms of containers of liquid and
16 hazardous substances that were still at the site;
17 some of which, including laboratory substances,
18 were not indicated on the list of schedules that
19 were presented to the government today.

20 Mr. Moore would also testify that he noticed
21 ground contamination, that there were contributing
22 source areas to groundwater contamination, an
23 emergency pit filled with substances that needed to
24 be drained and then filled up, and then a variety
25 of unknown chemicals and contaminated soils in a

1 Cedar Chemical

2 huge vault below a maintenance shed on the
3 property, as to which debtors lack sufficient
4 information as to what that vault contains.

5 So that would be the testimony if Mr. Moore
6 were called to the stand, and I would ask right now
7 if counsel for debtors could so stipulate to that
8 proffer.

9 MR. ANGEL: The debtors will accept
10 the proffer of counsel, that with regard to the
11 testimony that would have been elicited from Mr.
12 Moore as being an accurate depiction of that
13 testimony, and we have no desire to cross examine
14 Mr. Moore.

15 MR. KENNEDY: And that would
16 conclude the witnesses that the EPA would present
17 today, your Honor.

18 THE COURT: Any further witnesses?

19 MR. ANGEL: No, your Honor. The
20 debtor rests.

21 THE COURT: All right. I assume the
22 agencies rest also?

23 MR. KENNEDY: Yes, your Honor.

24 MS. COBB: Yes, your Honor.

25 THE COURT: We will adjourn this

Cedar Chemical

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hearing then, to October 15th at 10:00 a.m.

MR. ANGEL: Thank you, your Honor.

MR. KENNEDY: Thank you, your Honor.

